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THE
Statutes at Large;
BEING
A COLLECTION
OF ALL THE
LAWS OF VIRGINIA,
FROM THE
FIRST SESSION OF THE LEGISLATURE,
IN THE YEAR 1619.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY
OF VIRGINIA, PASSED ON THE FIFTH DAY OF FEBRUARY,
ONE THOUSAND EIGHT HUNDRED AND EIGHT.

—:⊗:—
VOLUME V.

—:⊗:⊗:⊗:—
By WILLIAM WALLER HENING.

—:⊗:⊗:⊗:—
“The *Laws* of a country are necessarily connected with every thing be-
longing to the people of it; so that a thorough knowledge of *them*, and
of their progress would inform us of every thing that was most use-
ful to be known about them; and one of the greatest imperfections
of historians in general, is owing to their ignorance of law.”

PRIESTLEY'S LECT. ON HIST. VOL. I. pa. 149

RICHMOND.

PRINTED FOR THE EDITOR,
AT THE FRANKLIN PRESS.—W. W. GRAY, PRINT.

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1819,

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WE JOHN M. MARTIN and ROBERT G. SCOTT, members of the Privy Council of the Commonwealth of Virginia, do hereby certify that the Laws contained in the Fifth volume of *Hening's Statutes at Large*, have been by us examined and compared with the originals from which they were taken, and have been found truly and accurately printed, except as to the list of *Errata* to the number of forty four at the end of the volume. Given under our hands and seals this 31st day of December, 1819.

JOHN M. MARTIN, Seal.
ROBERT G. SCOTT, Seal.

PREFACE

TO THE

FIFTH VOLUME

OF THE

STATUTES AT LARGE.

THE publication of this work, which had been suspended during the late war between the united kingdom of *Great Britain and Ireland*, and the *United States of America*, is now resumed, under the patronage of the Legislature. The lapse of every year evinced more clearly its importance. Almost every day were the unpublished sessions acts consulted, by some individual, whose rights depended on a statute no where else to be found. An enlightened legislature, at the last session, having gone through a revision of the laws, *now in force*, at once perceived that the work was not complete, until the *sessions acts*, from which these laws were originally taken, were also published. This was essential, not only to a correct exposition of the public laws, by being enabled to trace the reasons, on which they were founded, but for the quieting of private rights, and the preservation of authentic documents in our early history.

By an arrangement with the editor, and sole proprietor of the *Sessions acts* of which the **STATUTES AT LARGE** are composed, the copy-right is exclusively vested in the state. The impression is limited to one thousand copies; eight hundred of which are taken by the Commonwealth, and two hundred reserved by the editor, for the purpose of supplying his original subscribers. After distributing to public officers, a certain proportion of those subscribed for by the state, the remaining copies will be disposed of on public account, under the direction of the Executive.

Under the act of the fifth of February, 1808, the number of copies subscribed for by the state was so small, and consequently the impression so limited, as not to afford the editor any prospect of a just remuneration for the immense labour bestowed, and expenses incurred, in collecting the original materials. He

therefore authorised *Mr. Samuel Pleasants*, the then printer to the commonwealth, to publish three hundred and fifty copies, for a certain stipulated sum; the editor retaining the copy-right, and all the materials to himself. The 1st, 2nd, 3rd, and 4th volumes had been published, when the interruptions produced by the war, and the death of *Mr. Pleasants*, with the sale of his printing establishment, and the abandonment of the business by his representatives, suspended the farther progress of the work. The strong terms in which its prosecution was recommended, by the committee of revision, in their report to the legislature, at the session of 1817, aided by the correct views of its importance, taken by the members of that body, gave rise to the act of the 10th of March, 1819, which is prefixed to this volume.

If the publication had progressed, as was originally contemplated, the work would, by this time, have been nearly completed. As so much delay has unavoidably ensued, the editor will endeavour, by the most unremitted exertions, to fill up the chasm which has been produced. The fifth and sixth volumes will be published during the present year, and the seventh put to press. At the meeting of the legislature, in 1820, he expects to present them with a volume containing the laws of the revolution.

In this volume, the revised acts of 1748 commence; the operation of which was suspended until the tenth of June 1751. They were first published, as enacted by the colonial assembly, in the edition of 1752, without waiting for the royal assent. But the king, as announced by a proclamation of the governor of the eighth of April 1752, having repealed ten of the acts of 1748, their titles are published at the end of the volume, with a notification that they are so repealed. From hence it may be inferred that, the printing of the edition of 1752, had too far progressed before a notification of the repeal of these acts was received, to omit them in their proper places. The proclamation, at large, is inserted at the end of this volume.* This exercise of the royal prerogative was received with great sensibility by the legislature of Virginia, and its constitutionality strongly questioned; as may be perceived by the joint representation of the Governor, Council, and Burgesses, to the King, published in a note to chapter II of the acts of 1748, *declaring slaves to be personal estate, &c.*† In this representation, the reasons and necessity of enacting these laws are pressed with great weight, and the propriety of the *veto* exercised by the king repelled with equal firmness. The repeal of these acts, together with the incorrect manner in which the edition of 1752 had been printed, without doubt,

* See pa. 567.

† See pa. 432.

produced the edition of 1769, in which the errors of the edition of 1752 are corrected, the repealed acts of 1748 omitted, and such laws of a public nature inserted, as had been passed, or re-enacted, with amendments, since the revival of 1748. The editor has in his possession the very copy of the edition of 1752, from which that of 1769, was printed. Every act noted in manuscript "*not to be printed*" is omitted, in the edition of 1769; every correction introduced; the marginal notes printed word for word, as they are written; and the chapters numbered precisely as they are marked in manuscript. Besides, in various parts of the volume, the words "*Examin'd so far with the Rolls*" occur; and the printer's notes in the margin, shew the page on which each sheet of the edition of 1769 commences. On comparing the acts contained in the last mentioned edition, with the former laws, of which it was composed, it will be perceived, that although the chapters are differently numbered, yet the sections remain unaltered, and that no new matter, except mere corrections, is introduced. All these circumstances prove, that the laws contained in the edition of 1769, are a mere *compilation*, provided for by a *resolution* or *order* of the General Assembly, as appears by the title page; for no *act* can be found authorising a *revival* at that period. That collection was long known by the appellation of the **OLD BODY OF THE LAWS**, as contradistinguished, from the subsequent editions, and has ever been considered as of undoubted authority.

At the end of this volume is inserted the *official proclamation* repealing certain laws passed at the revival of 1748, already noticed, and the form of giving the *Royal Assent* to an act of assembly, passed under the colonial government.* These papers are preserved in a book in the office of the General Court, formerly under the direction of the Secretary of the Colony, who united, in his own person, the present offices of Clerk of the Council, Register of the Land Office, and with whose office that of the Clerk of the General Court was connected. It may not be unimportant to remark, that there are now, in the clerk's office of the General Court, a number of papers and records, which properly belong to the Executive department, and that of the Register of the Land Office. But it would require considerable labour to collate them. At one period, the Secretary seems to have had the papers of his office recorded, without regard to method, or the subject matter. In the same volume, we often meet with *proclamations, pleas of the crown, and patents for land*. And there can be but little doubt, that there are now in the office of the General Court, a number of patents for land, for which ineffectual

* See pa. 559.

searches have been made in the Register's Office. Indeed, the negligence of the Secretary was at one time so great, as to excite the animadversion of the General Assembly, and to render a special act necessary.*

Notwithstanding every effort has been made by the editor, he has to regret that there are a few private and local acts which he has been compelled to publish for the present by their titles only; it having been impossible to procure entire copies of the acts themselves, in this country. But he has sent to England a list of the titles, to which the acts are deficient, from whence he has every reason to expect the entire acts will be obtained, though at a very great expense. Should he succeed in procuring them, of which he has the best founded hopes, they will be published in an *Appendix* to the last volume, together with a *General digested Index* to the whole work. At a very early period of the colonial government, two copies of the laws of each session were sent to England; one to the lord Chancellor, or one of the Principal Secretaries of State, and another to the lords Commissioners for Trade and foreign Plantations,† to whom they were always referred by the king in council, before the royal assent or disallowance was signified. In consequence of this information, imparted by the editor, the entire copy of a private act had already been obtained from England, of which the title only had been preserved in this country. From the end of the year 1748 down to the present time, the editor has the satisfaction to state that, he has in his possession *every act* of the General Assembly, and *every ordinance* of Convention, passed in Virginia.

WILLIAM WALLER HENING.

* See vol. 2. pa. 216.

† See vol. 2. pa. 512.

*List of Governors of Virginia, during the
period comprised in this Volume.*

WILLIAM GOOCH, esq. who was appointed go- Wm. Gooch,
vernor in 1727, (see vol. 4. pa. 3.) continued in office esq.
during the whole period comprised in this volume,
and until some time between 1749, and 1752.

*An Act concerning the publication of the
Statutes at Large.*

[Passed March 10th 1819.]

I. *Be it enacted, by the General Assembly,* That in order to ensure the publication of the Statutes at Large, which was authorized by an act passed on the fifth day of February one thousand eight hundred and eight, the Governor be, and he is hereby authorized and required to subscribe on behalf of the Commonwealth, on such terms as are prescribed by the said act, for so many copies of the said work yet to be printed, as will make the whole number amount to eight hundred copies, including the number mentioned in the act aforesaid; the surplus copies of which, after distributing to public officers, in their discretion, so many as the Executive may deem expedient, not exceeding one hundred and fifty copies, shall be sold on public account, in such manner as the Executive may think proper to direct; the impression not to exceed one thousand copies of each volume. The Commonwealth taking the copies aforesaid, is entitled to the exclusive copy-right thereof.

2. *And be it further enacted,* That upon the certificate of any two members of the Executive Council, for the time being, annexed to each volume, that the said laws have been carefully compared by them, with the original laws, and found to be truly and accurately printed, they shall be received and considered of equal authority in the courts of this Commonwealth, as the originals from which they are taken.

3. This act shall commence and be in force from and after the passage thereof.

AT A

General Assembly,

Wm. Gooch,
esq. Govern-
or.

SUMMONED TO BE HELD AT

The Capitol, in the City of Williamsburg, on the first day of August, in the ninth year of the reign of our sovereign lord George the second, by the grace of God, of Great-Britain, France, and Ireland, King, Defender of the Faith, &c. And from thence continued, by several prorogations, to the first day of November, in the twelfth year of his said Majesty's reign, and in the year of our Lord, 1738.

CHAP. I.

An Act for further continuing and amending the Act, For amending the Staple of Tobacco; and for preventing frauds in his Majesty's Customs.

I. WHEREAS the act, made in the third year of his majesty's reign, *For amending the Staple of Tobacco; and for preventing Frauds in his Majesty's Customs*, which hath been explained, amended, and continued, by three subsequent acts of assembly; one of which, was made in the fifth, another in the eighth, and the other in the tenth year of the reign of his said majesty, hath been found, in a great measure, to answer the good ends and design thereof, in preventing the exportation of bad, unsound, and unmerchantable tobacco, in securing fair traders against many abuses and deceits, and in detecting and discouraging frauds in his majesty's customs; to the great advantage of the trade of this colony: And the said acts, if further continued, with some alterations and amendments, will be still a greater encouragement and benefit both to the trader and planter: And wheras, notwithstanding

Preamble.

standing the good effects of the said law, the ill behaviour and bad practices of some inspectors in the execution thereof, have occasioned some discontent and uneasiness. For remedy whereof, and for removing all occasion of complaint for the future,

The manner
of appointing
inspectors.

II. BE it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the last day of July next, all inspectors shall be appointed in the following manner; that is to say, The justices of the respective county courts within this colony, wherein public warehouses, for the reception and inspection of tobacco are, or shall be established, shall, annually, at the courts held for their said counties. in the month of August, or September, nominate and recommend to the governor or commander in chief of this dominion, for the time being, in writing, four fit and able persons, who are reputed skilful in tobacco, for the execution of the office of inspectors, for every public warehouse or inspection in their county. And that where public warehouses have been, or shall be, appointed in several counties. under one inspection, the court of each respective county, shall nominate and recommend two fit persons, to be appointed at such warehouses, in the manner herein before directed: Which nomination, the said justices shall cause to be entered upon record; and the clerks of such courts respectively, shall forthwith transmit a copy of the same to the secretary's office; and the governor, or commander in chief, with the advice of the council, out of the persons so nominated and recommended, shall chuse and appoint two, to execute the said office, at every such warehouse, or inspection. And if the persons so appointed, or either of them, shall be again recommended the next succeeding year, the same shall be a sufficient appointment to him or them, to continue in the said office, without a new commission; and so from year to year, so long as they shall be recommended, as aforesaid. And in case of the death, resignation, or removal of any inspector, the governor, or commander in chief, shall likewise chuse and appoint some other person named in the last recommendation, from the county court where the vacancy shall happen, to succeed such inspector.

III. *Provided always*, That no justice of the peace, being an inspector, or recommended to be an inspector, shall have a vote in any such recommendation: And that no inspector, during the time of his continuance in that office, shall be collector of his majesty's quit-rents, or of any public, county or parish levies, or of any officers fees. No inspector shall be a collector.

IV. *Provided also*, That if any county court shall fail to nominate and recommend, as aforesaid, the governor, or commander in chief, with the advice of the council, shall, in case of the vacancy of any inspectors place, appoint any person or persons that he shall think fit, to fill up such vacancy. County courts failing to recommend.

V. *Provided nevertheless*, That all inspectors, being in office at the time of the first nomination, who shall be recommended in manner aforesaid, by the said county courts, shall be continued in the said office, if they shall think fit, so long as they shall well behave themselves therein

VI. *And be it further enacted by the authority aforesaid*, That every inspector, before he enters upon the execution of his office, shall make oath, and give bond and security, according to the directions of the said first mentioned act of assembly. And that all inspectors shall constantly attend their duty at the warehouse, or inspection, under their charge, from the tenth day of November, to the last day of June yearly, (except Sundays, and the holy days observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness;) and afterwards, they, or one of them, shall constantly attend at the same, (except on Sundays) to deliver out tobacco for exportation, 'til all the tobacco remaining there the said last day of June, shall be so delivered. And every inspector neglecting to attend, as aforesaid, shall forfeit and pay, to the party grieved, five shillings for every neglect: To be recovered, with costs, before any justice of the peace in the county where such warehouse, or inspection shall be: Or shall be liable to the action upon the case of the said party grieved, to recover all such damages, which he or she shall have sustained, by occasion of any such neglect; together with his or her full costs, at the election of such party. Inspectors failing to attend, liable to a penalty, on the action of the party grieved.

VII. And, that the inspectors of every warehouse, or inspection, shall, hereafter, keep a just and true account of all tobacco that shall be gained or saved, upon Shall account for what shall be gained by

the allowan-
ces for cask,
or shrinkage.

the allowances made for cask, or shrinkage, of all transfer tobacco; and shall exhibit such account, upon oath, to the court of the county where such warehouse, or inspection shall be, in the month of September yearly, if a court be then held; but if not, shall then exhibit such account to some justice of the said county; and make oath thereto before him; which said justice shall return the same to the next succeeding court. And the said inspectors having exhibited such account, and made oath, as aforesaid, shall, by public auction, at the court-door of the said county, on the court day in September aforesaid, sell all such tobacco as shall be gained or saved, as aforesaid, for the best price that can be got for the same in money; and shall account for and pay the said money to the treasurer of this colony, for the time being, in their next account with him. And the said treasurer shall account for the same to the general assembly. And that no inspectors shall, hereafter, convert any such tobacco to their own use.

And may be
obliged to
pay transfer
tobacco in
hogsheads of
850 nett, and
to make crop
tobacco the
same weight.

VIII. And, that the inspectors be obliged to make every hogshead of transfer tobacco by them paid away, eight hundred and fifty pounds of nett tobacco, if the notes produced by the party receiving the same, do amount to so much, after the allowances for cask and shrinkage are deducted. And that they be also obliged, when required by any person entitled to receive any hogshead of crop tobacco at their inspection, which shall be under eight hundred and fifty pounds nett, to prize the same, so as to make it up that weight; such person finding the tobacco, and paying the same fee, as for passing and stamping transfer tobacco. And in all transfer notes which shall hereafter be delivered out, the inspectors shall distinguish whether the tobacco be leaf or stemmed.

An oath to
be taken by
them, and
other offi-
cers.

IX. *And be it further enacted, by the authority aforesaid,* That all inspectors, sheriffs, under-sheriffs, and constables, who shall be in office on the first day of February next, shall, at the first or second court of their respective counties, after the said first day of February, take an oath:

THAT if they shall at any time know, or be credibly informed, or have good grounds to suspect, that any tobacco is pressed or packed in any cask, chest, case, or other package whatsoever; or any tobacco is

put on board any boat or vessel, in order to be shipped off, without being inspected; or that any tobacco is carrying, or carried out of this colony, into *Carolina*, or *Maryland*, without a permit for so doing, they will forthwith make information, and a particular discovery thereof, to the next justice of the peace of the county where such tobacco shall be.

X. And, that all the said officers respectively, which Penalty.

shall hereafter be appointed, or sworn, into the said offices, shall, at the time of their being so sworn, take the same oath, and obtain a certificate thereof: And every such officer failing so to do, shall forfeit five pounds current money, to the informer: To be recovered, with costs, by action of debt, or information, in any court of record within this dominion. And if any justice of the peace shall know, or be informed, as aforesaid, by any of the said officers, or by any other person, upon oath, of any such tobacco so pressed or packed; such justice, or by his warrant, any sheriff, under-sheriff, or constable, within the limits of his county, shall have power, and be obliged, to enter any suspected house, and to break open all doors, either by night or by day, to search for the same; and finding any tobacco pressed in any cask, chest or case, that shall not contain two hundred pounds weight of nett tobacco, or any other package, made up in linen, cords, or spun-yarn, of any weight whatsoever; such justice, sheriff, under-sheriff, or constable, respectively, shall seize and destroy the same: And the person, in whose possession such tobacco shall be found, shall forfeit, to the informer, ten shillings current money, for every hundred pounds weight; and so in proportion, for a less quantity: To be recovered, with costs, in any court of record, if it be twenty five shillings current money, or more; or if under that sum, before any justice of the peace of the county where the fact shall be committed; and such justice shall issue an execution, either against the body or goods of the offender accordingly. And if any action shall be brought against any justice of the peace, sheriff, under-sheriff, or constable, for doing any thing in the execution of this act, the defendant may plead the general issue, and give this act in evidence: And if the plaintiff shall be nonsuit, or judgment pass against him, upon a verdict, or demurrer, the defendant shall recover double costs.

The power and duty of justices and officers, to prevent the exportation of uninspected tobacco.

Inspector removed, liable to the prosecutor's action for costs.

The rents of several warehouses raised.

XI. *And be it further enacted, by the authority aforesaid,* That if any inspector shall be removed from his office, upon a complaint, and prosecution against him, in the method prescribed by the said act, made in the eighth year of his majesty's reign, he shall be liable to the action on the case, of the prosecutor, for his necessary costs and expences in such prosecution; in which the prosecutor shall also recover his full costs of suit.

XII. *And whereas,* several new warehouses have been built, since the reduction of the public warehouse rents, some at the expence of the several counties where the said warehouses are situate, and others by the proprietors of the land on which the same are built; and the rents, as then settled, are not sufficient to defray the expence of building such additional houses, in any reasonable time:

XIII. *Be it therefore further enacted,* That from and after the tenth day of November last, the rents of the following public warehouses shall be raised and settled at the rates herein after expressed: that is to say,

	<i>Per Annum.</i>
Conway's,	17 0 0
Meriwether's,	17 0 0
Gray's Creek,	12 0 0
Mattox	14 0 0
Fredericksburg,	35 0 0
Warwick,	28 0 0
Roy's,	20 0 0
Acquia,	19 0 0
Bray's,	15 0 0
Urbanna,	7 10 0
Sleepy Hole,	13 10 0
Appamattox,	27 00 0
Gibson's,	21 00 0
Soans's,	15 00 0
Hunting Creek,	8 00 0
Constance's,	14 10 0
Lawrence's,	18 10 0

New warehouses to be erected, and others repealed. Inspectors salaries raised.

And that new public warehouses be erected at the following places: that is to say, upon the old plantation of Thomas Haynes, gent. deceased, on the east side of Eastermost river, in the county of Gloucester: And that the rent thereof, be ten pounds per annum; and

the salary of the inspectors, thirty pounds per annum to each inspector. On the land of Mr. Rodham Kenner, opposite to the warehouse at Coan, and to be under the same inspection; and that the rent of the said new warehouse be five pounds per annum. And that the public warehouse at Taskanask be repealed; and that instead thereof, a public warehouse be appointed at the Brick house, at the same rent as is settled for that at Taskanask; and to be under the same inspection as that at Hog-Neck. And that the public warehouse lately appointed on Capt. Barber's land, be also repealed; and another established instead thereof, at Totaskey ferry, at the rent of six pounds per annum; and to be under the same inspection as the warehouse on the other side the creek: And that the salary of the inspectors at Gibson's, be increased five pounds per annum, to each inspector; and of the inspectors at Fredericksburg, twenty pounds per annum, to each inspector.

XIV. *And be it further enacted*, That where any public warehouse has been appointed upon any river or creek, so near the water side, as that the tobacco bro't thither may be in danger of being destroyed, by the overflowing of such river or creek, the respective courts of the several counties wherein any such warehouse or warehouses are, shall be, and are hereby authorized and impowered at any time hereafter, when it shall be necessary, to build more or other houses, in the room of those gone to decay, to direct and appoint the warehouses, so to be built, to be erected at some more convenient place, upon the land of the owner or owners of the first built houses: But if such owner has no land where such house or houses may be built, and the tobacco be secured from such accidents, then the said county courts shall have power to direct such house or houses to be built upon the land of any other person.

Directions
for placing
public ware-
houses here-
after.

XV. *And be it further enacted*, That where any person, chargeable with any officers fees, lives in another county than that where the service is performed, or the fees become due, the same allowance shall be made to every such person, as is by law settled to be allowed in that county where the service is performed, or the fees become due; and no other allowance whatsoever. Any law, usage, or custom, to the contrary, notwithstanding.

Allowance
to be made
on paying
fees, explain-
ed.

Commencement and continuance.

XVI. *And be it further enacted, by the authority aforesaid, That this act shall commence immediately from and after the passing thereof: And together with the said first mentioned act, For amending the Staple of Tobacco; and for preventing Frauds in his Majesty's Customs; and the three other subsequent acts, For explaining, amending, and continuing that Act, for so much of the same as is not repealed, or altered, shall continue in force 'till the ninth day of November, in the year of our lord, one thousand seven hundred and thirty nine, and from thence for three years next following, and no longer.*

CHAP. II.

An Act, for the better Regulation of the Militia.

Preamble.

I. WHEREAS, the laws heretofore made, for the settling and better regulation of the Militia, have proved very ineffectual, whereby the colony is like to be deprived of its proper defence, in time of danger, for want of training the persons listed to serve therein, and reducing them under a proper discipline:

What persons shall be listed.

II. BE it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the publication of this act, the colonel, or chief officer of the militia, in every county, shall list all free male persons, above the age of one and twenty years, within this colony, under the command of such captains as he shall think fit.

Persons exempted from personal attendance.

III. Provided always, That nothing herein contained, shall be construed to compel any persons herein after-mentioned, to a personal attendance at musters: that is to say, Such as are, or shall have been, members of his majesty's council, speaker of the house of burgesses, secretary, receiver-general, auditor, judge of the court of vice-admiralty, attorney-general, clerk of the council, clerk of the house of burgesses, clerk of the secretary's office, a justice of the peace, clerk of any county court, or any person that shall have borne any military commission as high as that of a captain, or any of the people commonly called Quakers: Yet all the persons aforesaid, shall, and are hereby required,

to send one able-bodied man, not being a convict, or man and horse, armed and accoutred, according to the directions of this act, constantly to appear, and exercise at musters.

IV. *Provided also*, That nothing herein contained, shall impower or enable any colonel, or chief officer of the militia, to list or cause to be listed, any of the ministers of the church of England, the president, masters, or professors, and students, of the college of William and Mary, during the time of their being such, any overseers residing on the plantation where the slaves under their care are worked, all millers, having the charge and keeping of any mill, nor the founders, keepers, or other persons employed in or about any iron, copper, or lead work, or any other mine, during the time of their being so employed; who are hereby exempted from being any ways concerned in the militia.

V. *And be it further enacted, by the authority aforesaid*, That every person, so as aforesaid listed, (except free mulattos, negros and Indians,) and placed or ranked in horse or foot, shall be armed and accoutred in manner following: that is to say, Every horse-man shall be furnished with a serviceable horse, a good saddle, with breast-plate, crupper, curb-bridle, carbine or fuzee, and bucket, holsters, a case of pistols, cutting sword or cutlass, double cartouch-box, and six charges of powder; and constantly appear with the same, at the time and place appointed for muster and exercise; and shall keep at his place of abode, one pound of powder, and four pounds of ball, and bring the same into the field with him, when thereunto required. And every footman shall be furnished with a firelock, musket, or fuzee, well fixed, a bayonet fitted to the same, or a cutting sword or cutlass, a cartouch-box, and three charges of powder; and appear with the same at the time and place appointed for muster and exercise, as aforesaid; and shall also keep at his house, one pound of powder, and four pounds of ball; and bring the same into the field, when he shall be required.

How the militia shall be armed.

VI. *And be it further enacted*, That all such free mulattos, negros, or Indians, as are or shall be listed, as aforesaid, shall appear without arms; and may be employed as drummers, trumpeters, or pioneers, or in such other servile labour, as they shall be directed to perform.

Mulattos, &c. not to bear arms.

Duty of officers, and punishment of disobedient soldiers.

VII. And, for the better training and exercising the militia, and rendering them more serviceable, *Be it further enacted*, That every captain shall, once in three months, or oftner, if required, muster, train, and exercise his troop or company: And the county lieutenant, colonel, or chief commanding officer, in every county, shall cause a general muster and exercise of all the troops and companies within his county, to be made in the month of September, every year. And if any soldier, during the time he is in arms at a general muster, shall refuse to perform the commands of his officer, or behave himself refractorily or mutinously, it shall and may be lawful, to and for the chief commanding officer, then present, to cause such offender to be tied neck and heels, for any time, not exceeding five minutes: And for a second offence, at such general muster, the offender shall be punished by the sentence of the majority of the field officers and captains, then present; who are hereby empowered, by a warrant under their hands, to commit the offender to the county goal, there to remain for any time not exceeding ten days. And if any soldier, during the time he is in arms, at any private muster, shall misbehave, as aforesaid, such offender shall be punished by any field officer then present; or, in case there be no such field officer, then by the sentence of a majority of the commission officers, then present; which field officer, or in his absence, the majority of the commission-officers, are hereby empowered to cause such offender to be tied neck and heels, for any time, not exceeding five minutes, for the first offence; and for the second offence, the majority of the commission-officers, then present, are hereby empowered, by warrant under their hands, to commit such offender to the county goal, there to remain for any time not exceeding ten days. And in either case, of commitment to the county goal, the offender so committed, shall not be thence discharged, until the lawful fees for commitment, imprisonment, and discharge, be fully satisfied and paid. And that every captain, and, in his absence, the lieutenant, shall duly make a list of all the persons upon his muster-roll, who shall be summoned, and do not appear at any of the said musters, armed and accoutred, as by this act is directed; and return the same, with the names of all officers who shall be absent, to the court-martial, to

which he belongs. And every captain shall have power to appoint a clerk, to his troop or company, who shall keep the muster-rolls, and attend all musters with the same; and such clerk shall be exempted from appearing at arms, in all such musters.

VIII. And further, it shall and may be lawful, for the chief officer of the militia, in every county, to order all persons listed therein, to go armed to their respective parish churches; and some time before the tenth of June yearly, to appoint an officer, and four men, of the militia, at such times and seasons as he shall think proper, to patrol, and visit all negro quarters, and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons. And such patrollers shall have full power and authority, to take up any such slaves, servants, or disorderly persons, so as aforesaid unlawfully assembled, or any other, strolling about from one plantation to another, without a pass from his or her master, mistress, or overseer, and to carry them before the next justice of the peace; who is to order every such slave, servant, stroller, or other disorderly person, as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back, well laid on: And in case one company of patrollers shall not be sufficient, to order more companies, consisting of the same number. And such patrollers shall be exempted from attendance at private musters, and from the payment of all public, county, and parish levies, for their own persons, for those years in which they shall be employed in that service.

Provision for going armed to church, and appointing patrollers.

IX. *And be it further enacted*, That it shall and may be lawful, for the field officers, and captains, of every county, or the major part of them, whereof the county lieutenant, colonel, lieutenant-colonel, or major, shall be one, and they are hereby required to meet at the court-house of their counties, respectively, on the day next following the general muster, then and there to hold a court martial; which said court shall have power to adjourn from day to day, and to enquire of the age and abilities of all persons listed, and to exempt such as they shall judge incapable of service; and of all delinquents returned by the captains, for absence from musters, or appearing without arms and accoutrements; and to order the fines inflicted by this act,

A court martial to be held for finding delinquents.

and not otherwise directed, to be levied upon all delinquents, who shall not make out some just excuse for not performing their duty; and to order and dispose of all such fines, in the first place, for buying drums, trumpets, and trophies, for the use of the troop or company from whence the same arise; and afterwards, for supplying the militia with arms. And the said court shall have full power, and are hereby required, to keep a register of all their proceedings; and for that purpose to appoint a clerk; and to allow him such salary for his service, out of the said fines, as they in their discretion shall think reasonable. And after the holding of every such court, the clerk shall make out copies of all their orders, and deliver the same, within one month next following the said court, to the sheriff of the county; who is hereby impowered and required to demand and receive the money or tobacco therein charged, of the persons made chargeable therewith; and in case of non-payment, on or before the tenth day of April next following, to levy the same by distress, and sale of the goods of the party refusing, according to the directions of the laws now in force, enabling the sale of goods distrained for rent.

The fines
settled.

X. And, for settling the fines to be inflicted upon all persons who shall fail to do their duty, in any thing required to be done by this act, and on all other delinquents punishable hereby, *Be it further enacted by the authority aforesaid*, That the several persons herein after mentioned, for such failure, shall forfeit and pay the sums following, respectively: that is to say, The lieutenant of any county, or, in case of his absence from, or non-residence in the county, the chief commanding officer, there residing, failing to appoint a general muster, in the month of September, yearly, shall pay ten pounds for every failure: To be recovered, with costs, by action of debt, or information, in any court of record, in this colony; one moiety to our sovereign lord the king, his heirs and successors, for and towards the better supplying the county with arms; and the other moiety to the informor, to his own proper use. Every colonel, lieutenant-colonel, or major, failing to appear at such general muster, or court, shall pay forty shillings. Every captain, who shall fail to muster and exercise his troop or company, four times a year shall pay twelve shillings for every failure. And every captain failing to appear at the court martial, or general mus-

ter, shall pay twenty shillings for every failure. And every lieutenant who fails to appear at muster, shall pay ten shillings for every failure. And every cornet, or ensign, seven shillings and six pence. And every captain or in his absence, the next commanding officer, failing to return a list of the persons who shall not appear at musters, or shall appear without his arms or accoutrements, shall pay fifty shillings. Every soldier refusing to serve as a serjeant, corporal, drummer, or trumpeter, being thereto appointed by his captain, shall pay fifty shillings, or five hundred pounds of tobacco, at his election; but such person shall be fined but once for such refusal. Every person listed to serve in the horse, shall pay seven shillings and six pence, or seventy five pounds of tobacco: And every person listed in the foot, shall pay five shillings, or fifty pounds of tobacco, at their election, for not appearing at muster, completely armed and accoutred; so that no person be fined above five times a year for such failure. And every clerk of a court-martial failing to deliver the orders of the court to the sheriff of the county, within the time herein before limited, shall forfeit all the salary or allowance for his service, as clerk, for that year.

XI. *Provided always, and be it enacted*, That eighteen months time be given and allowed to each soldier to furnish and provide himself with arms and ammunition, according to this act: And that no soldier be fined for appearing without, or not having the same at his place of abode, until he hath been listed eighteen months after the passing of this act. Any thing in this act to the contrary, or seeming to the contrary, in any wise, notwithstanding; so as every soldier, during the said eighteen months, do appear at all musters, with such arms as he is already furnished with. 18 months allowed for providing arms.

XII. And, for encouragement to every soldier to provide and furnish himself, according to the directions of this act, and his security to keep his arms and ammunition, when provided, *Be it enacted, by the authority aforesaid*, That the furniture, arms and ammunition, provided and kept, in pursuance of this act, be free and exempted, at all times, from being impressed upon any account whatsoever; and likewise from being seised or taken by any manner of distress, attachment, or writ of execution. And that every distress, seizure, or execution, made or served upon any of the Arms exempted from seizures and distresses.

premises, be unlawful and void: And that the officer or person that presumes to make or serve the same, be liable to the suit of the party grieved; wherein double damages shall be given, upon a recovery.

Other defaults finable.

XIII. *And be it further enacted*, That every person exempted from personal appearance only, failing to send an able bodied man, or man and horse, as the case shall be, in his room, to be trained and exercised, shall pay the same fine as is herein before inflicted for not appearing at musters. And every person ordered to go to church armed, failing to do his duty therein, shall pay five shillings. And every person ordered to patrol, and failing so to do, (to be certified to the court-martial, by the officer of such patrol,) shall pay ten shillings, for every failure. And every person going to, attending at, or returning from muster, shall be privileged and exempted from arrests, and being served with any other process, in any civil action or suit.

Exempted overseers or millers not to appear at musters.

XIV. *And be it further enacted by the authority aforesaid*, That if any exempted overseer, or miller, shall presume to appear at any muster, or in any muster field whatsoever, on the day on which such muster shall be appointed; the party so offending, shall, for every such offence, forfeit and pay ten shillings, or one hundred pounds of tobacco; to be assessed upon him by the next court-martial, upon certificate of the offence to them made, by the captain, or chief officer, present at such muster; and levied, accounted for, and appropriated, in the same manner, as the other fines ordered by the court-martial.

Sheriff refusing to receive the orders of the court martial, or failing to account.

XV. *And be it further enacted*, That if any sheriff shall refuse to receive the orders of any court-martial offered to him, by virtue of this act, or to collect and levy the fines therein mentioned; such sheriff, upon a motion and complaint thereof made to the county court or general court, shall be fined, for such refusal, fifty pounds current money: To be appropriated, in the same manner, as the other fines last mentioned. And if any sheriff, taking upon him such collection, or receiving the said orders, shall fail to account for, and pay what he shall have received, by virtue thereof, to the receiver, to be appointed for that purpose, by the court martial, deducting ten per cent. only for his trouble in collecting and receiving; upon a motion or complaint made against him, by the said receiver, or the com-

manding officer of the militia, to the county court, or general court; such court shall give judgment, and award execution against him, for the same.

XVI. *And be it further enacted.* That every commission officer in the militia, shall, before he acts under, or executes any such commission, in the court of his county, take the oaths appointed by law to be taken, instead of the oaths of allegiance and supremacy, the abjuration oath, and subscribe the same, with the test: And that every county lieutenant, colonel, lieutenant-colonel, major, and captain, at the time of their holding every court-martial, shall, before they hold the same, take the following oath; which shall be first taken by the presiding officer then present, and by him administered to the rest of the officers: to wit,

Oaths to be taken by commission officers.

I A. B. do swear, That I will do equal right and justice to all men, according to the act of assembly, for the better regulation of the Militia.

XVII. *And be it further enacted,* That the adjutant-general, for the time being, with one servant, and their horses, shall be exempted from the payment of ferriages at all public and other ferries, within this colony: And that the respective ferry keepers shall give him, and his servant, and horses, immediate passage at all such ferries, as in the case of public expresses. Any law, or custom, to the contrary, notwithstanding.

Adjutant general, &c. ferry free.

XVIII. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, and every clause and article therein contained, *For the settlement and regulation of the Militia;* or any other matter or thing, within the purview of this act, shall be, and is hereby repealed and made void, to all intents and purposes whatsoever.

Repeal of other acts.

XIX. *Provided always,* That nothing in this act contained, shall extend, or be construed to extend to the inhabitants of the city of Williamsburg, so as to oblige them to muster, or serve in the militia, out of the said city: But that such inhabitants shall be listed and trained, in manner as is directed by one act of assembly, made in the ninth year of the reign of his late majesty king George the first, intituled, *An Act for enlarging the Jurisdiction of the Court of Hustings in the City of*

This act not to extend to Williamsburg.

Williamsburg, *within the limits thereof.* Any thing in this act, to the contrary, or seeming to the contrary, in any wise, notwithstanding.

CHAP. III.

An Act, for reviving the Act, For making more effectual provision against Invasions and Insurrections.

Preamble.

I. **WHEREAS**, the act made in the first year of the reign of his present majesty, intituled *An Act, for making more effectual provision against Invasions and Insurrections*, which was continued by two several acts; the one made in the fifth and sixth years, and the other in the eighth year of his said majesty, and is now expired, has been found, by experience, to be very useful:

1 Geo. 2, re-
vived for
three years.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same, That the said first mentioned act shall be, and is hereby revived, and shall continue and be in force, from the passing of this act, for the term of three years next following, and no longer.*

CHAP. IV.

An Act, for altering the method of Trial of certain Criminals therein mentioned.

Preamble.

I. **WHEREAS**, by the laws now in force, *For the trial of persons committing capital crimes*, twelve freeholders are to be summoned from the county where the fact is committed, for the trial of every such criminal: Which method, through the great increase of offenders, is become very burthensome and expensive to the public, as well as grievous to many of his majesty's good subjects, who live in the remote counties, and are summoned to serve as jury-men at the said trials. And whereas, most of the felonies, and other capital offences committed in this colony, are perpetrated and done by persons who have been convicted of felony, or other crimes in Great Britain, or

Ireland, and there sentenced to be transported for the same. And it can be no benefit or advantage to such persons, who are commonly servants, and little known in the neighbourhood where they live, to have a jury of the vicinage; but they may be as fairly and impartially tried by a jury of the by-standers:

II. *BE it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the first day of February next, when any person charged with a capital offence, shall be examined before any county court, or other inferior court in this colony, pursuant to the laws in that behalf made; such court shall have full power, and are hereby authorized to enquire, by all such ways and means as they shall think necessary, whether such person has been convicted in Great-Britain, or Ireland, of any felony, or other crime, and there sentenced to be transported for the same; and whether the term for which such person was sentenced to be transported, be expired: And if it shall appear to any such court, that the person so charged with any capital offence, has been so convicted, and sentenced to be transported, as aforesaid, and that the term for which such person was so transported, be not expired; the said court shall cause their opinion to be entered upon record: And the clerk of the said court shall and is hereby required to certify such opinion upon the back of the commitment to the public goal.

Duty of courts for examination of capital offenders.

III. *And be it further enacted by the authority aforesaid, and it is hereby enacted,* That when any person shall be committed to the public goal of this colony, for any capital crime, and there shall be such certificate as herein before is mentioned, indorsed on the back of the commitment of such person, the clerk of the general court shall not issue any writ to summon a jury of the freeholders of the county where the fact is alledged to be committed for the trial of such persons, as hath been heretofore used; but such persons shall be tried by a jury of the by-standers, in the general court, or court of *oyer and terminer*, as the case may be. Any law, usage, or custom, to the contrary, in any wise, notwithstanding.

How convicts shall be tried.

IV. *Provided always,* That no person shall be qualified to be of such jury, unless he be a freeholder, and

Jurors qualified.

possessed of an estate real or personal, of the value of one hundred pounds sterling.

Challenges
to be allow-
ed.

V. *Provided also*, That upon every such trial, the prisoner shall have the benefit of challenges, and all other advantages, which, by the laws of this colony, he would have, or might be entitled to, in case the trial was by a jury of the vicinage.

Continuance
of the act

VI. *And be it further enacted by the authority afore-
said*, That this act shall continue and be in force, for the term of four years, from the passing thereof, and from thence to the end of the next session of assembly, and no longer.

CHAP. V.

*An Act, for continuing and amending an Act, intituled,
An Act, for laying a Duty on Liquors.*

Preamble.

I. **W**HEREAS, by one act of assembly made in the fifth and sixth years of the reign of his present majesty, intituled, *An Act for laying a Duty on Liquors*, a duty of three pence per gallon is laid on certain liquors therein mentioned, for the term of four years, to commence from the last day of July, one thousand seven hundred and thirty two; which said act, by one other act, made in the eighth year of his said majesty's reign, is continued for the further term of four years, from the expiration thereof. And whereas, it is found, by experience, that the said duty is the most easy expedient for raising a fund, to answer the exigencies of the government, without subjecting the people to a poll tax:

5 & 6 Geo. 2,
continued.

II. *BE it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, That the said first recited act of assembly, shall continue and be in force, from and after the last day of July, in the year of our Lord one thousand seven hundred and forty, for and during the term of four years from thence next following, and no longer.

III. And whereas, the allowance made by the said first recited act, for filling and leakage, is not sufficient to answer the lossess the traders in rum sometimes sustain thereby, *Be it further enacted*, That after the said

last day of July. in the year last mentioned, every collector of the duties by this, or any former act imposed, shall abate and allow to the person or persons who shall enter any ruin and pay the duty for the same, fifteen gallons in every hundred, over and above what is already directed to be by him allowed, by the said last mentioned act. Any thing therein contained to the contrary, or seeming to the contrary, in any wise, notwithstanding.

Further allowance for leakage.

IV. *Provided always*, That the said allowance for leakage, shall not extend, or be construed to extend, to the duty of one penny per gallon, laid upon liquors, by one act of assembly, made in the twelfth year of the reign of his late majesty king George the first; to which his majesty has given his royal assent: But that no greater allowance for leakage, as to the said duty of one penny shall be allowed, than is provided in the said act: any thing in this act, to the contrary, notwithstanding:

Not to extend to the appropriated one penny.

V. *And be it further enacted*, That when any liquors shall be consigned to any person, other than the master or owner of the ship or vessel importing the same, every such person, to whom any liquors shall be so consigned, as aforesaid, shall, upon the importation thereof, pay to the master or owner of the ship or vessel importing the same, the duty payable for such liquors, by this or any other act. And if any person or persons, to whom such liquors shall be consigned, as aforesaid, shall refuse or neglect to pay the said duty, or to give bond, with security, for the payment thereof, to the master or owner of the ship or vessel importing the same, at such time as the same shall become payable; it shall and may be lawful, for the master or owner of such ship or vessel, to detain such liquors, until the duty shall be paid, or secured to be paid, as aforesaid.

Master or owner may detain for the duty.

VI. *And be it further enacted*, That all liquors imported, on which there is a duty, and transported by water from one district to another, and landed or sold, without producing a proper certificate to the officer into whose district the same shall be transported, shall be liable to be seised and forfeited. And the liquors so seised and forfeited, shall be appropriated and disposed of, in such manner, as the other forfeitures mentioned in the said act, made in the fifth and sixth years of his said majesty's reign, are thereby appropriated.

Liquors seizable.

An Act, for amendtng and further continuing an Act intituled, An Act, for laying a Duty upon Slaves.

Preamble.

I. WHEREAS, the duty upon slaves imported, as the same is laid, by one act of assembly made in the fifth and sixth years of his majesty's reign, intituled, *An Act, for laying a Duty upon Slaves, to be paid by the Buyers*; which said act was continued by one other act, made in the eighth year of his majesty's reign hath been found, by experience, to be an easy expedient for raising a revenue towards the lessening of a poll tax, always grievous to the people of this colony, and is no ways burthensome to the traders in slaves. And whereas, the method of collecting the said duty upon slaves, prescribed by the said first recited act; and by one other act, made in the tenth year of his majesty's reign, intituled, *An Act for laying a Duty upon Liquors imported by Land: and better securing the Duty upon Slaves; and for other purposes therein mentioned*; hath proved very inconvenient, and given great opportunities for frauds: Therefore, for amending and further continuing the said first recited act:

Seller of slaves to receive the duty.

II. Be it enacted, by the Lieutenant-Governor, Council and Burgessess, of this present General Assembly, and it is hereby enacted by the authority of the same, That every importer of slaves into this colony, either by land or water, for sale, if such importer shall sell the same himself; or if such slaves shall be consigned to any other person, than the person or persons who shall take upon him or them, the sale and disposal of such slaves, shall be, and he, and they, are hereby appointed collector and collectors of the said duty, upon the slaves so imported and sold by him, or them, respectively. And upon all other slaves, in case such importation shall be by water, that shall be imported in the same ship or vessel, belonging to the master, or other officer, commonly called privileged slaves: And every buyer or purchaser of any slave or slaves so imported, shall, upon the sale and delivery of such slave or slaves, pay down the duty, mentioned in the said first recited act, to such collector or collectors; or give his promisory note, for paiment of the same, within forty days after the time of such sale and delivery. And in case any

slave or slaves, for which the duty shall be so paid, or secured to be paid, as aforesaid, shall happen to die, within the said forty days, and the buyer or purchaser shall make oath thereof, before some justice of the peace, it shall and may be lawful for the said collector or collectors; and he and they are hereby impowered and directed, upon producing and delivering a certificate of such oath to him or them, to refund and pay back to the buyer or purchaser, the said duty, if the same shall have been paid; or deliver up the promisory note given, for the payment thereof, as the case may be. And if any importer of slaves, or other person or persons taking upon him or them the sale and disposal of slaves, as aforesaid, shall neglect or refuse to receive the said duty; or take notes for the payment thereof, as herein before is mentioned; every such person and persons shall be, and is, and are hereby made chargeable with the payment of the said duty, in the same manner, as the buyer or purchaser is made chargeable by the said first recited act, or by this act.

III. *Provided always*, That if any importer of slaves, Seller, not or other person or persons, taking upon him or them, being an inhabitant, to the sale and disposal of slaves so imported, shall not be an inhabitant or inhabitants of this colony; in such case, the buyers and purchasers of any slave and slaves so imported, shall pay the duty aforesaid, to the naval officer of the district where the ship or vessel, in which such slave shall be imported, shall enter, in case the same shall be imported by water: And if such slaves shall be imported by land, then to the naval officer who shall live nearest to the place where such slaves shall be sold, in the manner prescribed by the said first recited act, and the said act made in the tenth year of his majesty's reign; and such naval officer is hereby appointed collector of the said duty accordingly.

IV. *And be it further enacted, by the authority aforesaid*, That all and every the collector and collectors of the duty aforesaid, appointed by this act, shall account for the said duties, in the same manner, as the collectors of the said duties are directed to account, by the said first recited act, and the said act, made in the tenth year of his majesty's reign; and shall have and receive the salary of six pounds in the hundred: And such collector or collectors, if he or they have had the sale and disposal of any slave or slaves, shall, at the

Collectors to
account, &c.

time of such accounting, deliver to the treasurer of the duties upon liquors and slaves, upon oath, a true manifest or account of all the slaves by him or them sold, the name and place of abode of every person buying the same, the respective prices at which each slave was sold, and how many of the said slaves; if any, remain then unsold; and also, a true account of the names of such buyers who have paid the duty, and the sums received from each person respectively, together with a list of such persons, if any whose promisory notes shall be then due and unpaid; and shall then deliver to the treasurer all such notes as shall be then due, and payable; and shall have and receive the same salary upon such notes, as if the money was actually paid into the treasury: And in case any such note or notes shall remain unpaid and unsatisfied, after the time in which the same ought to have been paid and discharged, the person or persons signing such note or notes, shall forfeit treble the sum for which such note or notes shall be given. And the said penalty shall and may be sued for in the general court, although the same shall not amount to ten pounds sterling: and the treasurer of the said duty, for the time being, shall and may commence and prosecute any action, or information, *qui tam*, for recovery thereof; in which action or information, no act, or time of limitation shall be bar; and the money recovered, shall be accounted for, and paid into the treasury.

Penalty.

May be compounded.

V. *Provided always*, That it shall and may be lawful for the treasurer to compound the said penalty, either before or after action brought.

Former acts continued.

VI. *And be it further enacted*, That so much of one clause of the said first recited act of assembly, that imposes a penalty of five pounds upon every buyer of a slave, who shall not pay the duty, and give an account of the slave or slaves by him purchased, to the collector of the said duty according to the directions of the said act; except as to such buyers who shall purchase any slave or slaves of any person not being an inhabitant of this colony, be, and is hereby repealed: but the same, as to such last mentioned buyers, shall be still in force: And the said first recited act of assembly, made in the fifth and sixth years of his majesty's reign, and the said act made in the tenth year of his majesty's reign, so far as the same concerns the said duty upon slaves, for so

much of the said acts as are not repealed or altered by this act, shall continue, and be in force, from and after the first day of July, which shall be in the year of our lord, one thousand seven hundred and forty, for and during the term of four years from thence next following, and no longer: And that so much of the said acts as are contrary to any thing contained in this act, shall be, and is hereby repealed, and made void.

CHAP. VII.

An Act, for amending the Act, intituled, An Act, for making, clearing, and repairing the Highways; and for clearing the Rivers and Creeks; and for making more effectual provision for the keeping Mill-Dams in good repair.

I. **WHEREAS**, by one act of assembly made in Preamble.
the fourth year of the reign of the late queen Anne, intituled, *An Act, for making, clearing, and repairing the Highways; and for clearing the Rivers and Creeks; and for making more effectual provision for the keeping Mill-Dams in good repair*, the surveyors of the highways are obliged, with the assistance in the said act mentioned, to maintain and keep in repair the public roads in their respective precincts, which were then, or should thereafter be laid out, pursuant to the directions of the said act; and to make bridges in all necessary places within their said precincts, at least ten foot broad, and level, and passable, and keep them in good repair, from time to time, except in such places where the county courts are obliged to direct the making thereof: And although the surveyors are enjoined to perform those services; yet no power is given them by the said act, to take wood or timber, to enable them to do the same; and divers persons have refused to suffer them to take any wood or timber from off their lands, for the uses aforesaid:

II. *BE it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing this act, it shall and may be lawful for the surveyors of the highways, within their several precincts, from time to time, to cut* Timber to be valued.

and take from off the lands of any person next adjacent to the bridge or place, where the same shall be wanted, such and so much wood and timber only, as shall be necessary, for the uses aforesaid: Which timber shall be first viewed and valued by two honest housekeepers, upon oath, to be appointed and sworn, by some justice of the peace of the county where the said timber shall be cut: And that the court of the said county shall, in their next county levy, allow the owner of such timber for the same, according to such valuation, if a certificate thereof, from the said two housekeepers, shall be produced to such court.

Recital.

III. And whereas, it is directed by the said act, That if a bridge shall be wanting over any place, which lies between two or more counties, the court of each county shall join in the agreement, for building the same; and shall have power to lay a county levy, for the payment thereof, proportionable to the number of tithables in each county: But there being no penalty inflicted on the said county courts, for not doing their duty therein, the said act, as to that part thereof, hath in some instances proved ineffectual:

Necessary bridges and causeways to be made between adjacent counties.

IV. *Be it therefore enacted, by the authority aforesaid,* That where bridges and causeways are, or shall be necessary, for the conveniency of passing from one county to another, the charge of making such bridges and causeways, so far as the same shall be wanting, shall be borne and defray'd, at the joint expence of both counties, in proportion to the number of tithables in each county, respectively: And, if the justices of any county adjoining to such place, over which a bridge and causeway shall be wanting, and necessary, or over which any bridge and causeway is already erected, shall refuse to join in an agreement with the justices of the county adjoining to the other side of such place, for the building, re-building, or repairing of any such bridge or causeway; or to levy their proportion of the charge thereof, in their county levy, according to the number of tithables in such county; the justices of such county so refusing, shall forfeit and pay two thousand pounds of tobacco to the justices of the other county, proposing to enter into such agreement: To be recovered, by action of debt, or information, in the general court; and to be by them appropriated to the use of their county, for lessening the levy thereof, by the poll.

V. *Provided always*, That such recovery shall not be construed to discharge such refusing justices, nor the other justices of such county, from the obligation of levying and paying such proportion afterwards, in the levy of their county. Any law, custom, or usage, to the contrary hereof, in any wise, notwithstanding. Penalty recovered.

VI. *And be it further enacted, by the authority aforesaid*, That where it shall be necessary and convenient to make and clear a road in one county, to some public place in another adjacent county, and a road shall be accordingly made and cleared, by order of the justices of either of the said counties, as far as the county extends; the justices of every such adjacent county shall, and are hereby required, to cause a convenient road to be made and cleared through their county, from the end of the road cleared in the said other county, to such public place, as aforesaid. And if the justices of such adjacent county shall fail, or refuse so to do, they shall forfeit and pay to the justices of the said other county, two thousand pounds of tobacco: To be recovered and appropriated, in the same manner, as the penalty last mentioned. And for the ease and conveniency of travellers, where several roads meet, Roads cleared towards public places.

VII. *Be it further enacted*, That the courts of the several counties within this colony, shall, before the first day of April next, direct and order the surveyors of the several roads within their county, where two or more cross roads or highways meet, forthwith to cause to be erected, in the most convenient place, where such ways join, a stone or post, with inscriptions thereon, in large letters, directing to the most noted place, to which each of the said joining roads leads: And it shall be lawful for the surveyor to take any trees or wood, not being timber, from any of the lands next adjacent to such roads, for making and setting up such post: And the expence such surveyor shall be at, in setting up such stone or post, and causing inscriptions to be made thereon, shall be re-imbursed and paid by the county at the next laying of the county levy, after the service performed. And if any surveyor shall, by the space of three months after he shall be served with the order of the said court, neglect or refuse to cause such stone or post to be fixed, as aforesaid; every such offender shall forfeit and pay the sum of fifteen shillings, for every month such stone or post shall be wanting: To be re- Where several roads meet.

covered, in the same manner, as the penalty for not keeping the roads or highways in repair. And every such surveyor shall, from time to time, as there shall be occasion, cause the inscriptions on such stone or post to be renewed, and also, cause a new stone or post to be fixed, with inscription, as aforesaid, if the same shall be wanting, under the like penalty, as for not keeping the roads or highways in good repair; and to be recovered, in the same manner. And if the justices of any county court shall neglect or refuse to direct or order the surveyors of the several counties, to erect such stone or post, as aforesaid, according to the directions of this act; such justices shall forfeit and pay the sum of two thousand pounds of tobacco: One moiety to our sovereign lord the king, his heirs and successors, for and towards the support of this government, and the contingent charges thereof; and the other moiety to him or them, that will inform, or sue for the same: To be recovered, with costs, by action of debt, or information, in the general court.

Owners and
occupiers of
mills.

VIII. And, for the more easy prosecution of owners and occupiers of mills, to which any public road leads, who shall not keep their dams in good repair, and of the breadth prescribed by law: *Be it enacted*, That if any such mill-dam, or the bridge, or passage of the peer-head, flood-gates, or waste, over the same, shall, after the first day of May next, be of less breadth than ten feet at top, for the whole length of such dam, bridge, or passage; the owner or owners, occupier or occupiers of such mill, shall forfeit and pay twenty shillings for every offence: To be recovered, with costs, before any justice of the peace of the county, in which such mill-dam shall be; one half of the said penalty to the use of the informer; and the other half to the church-wardens of the parish, in which such mills shall be, for the use of the poor of the said parish. And every owner or occupier of such mill, shall, before the said first day of May, cause strong rails to be set up on each side of such bridge, or passage at the peer-head, flood-gates, or waste, under the like penalty

Proviso.

IX. *Provided always*, That if any such mill-dam, or the flood gates, or peer-head, belonging to any such mill, shall happen to be destroyed or carried away by violent rains, or other accident; the owner or owners thereof, shall not be liable to any of the penalties afore-

mentioned, until one month after such mill hath ground at least one bushel of corn, or other grain, for toll.

X- *And be it further enacted*, That so much of one act of assembly, made in the first year of the reign of his late majesty king George the first, intituled, *An Act, to oblige owners and occupiers of Mills, to which public Roads shall lead, to make the Dams of such Mills ten feet wide at top*, as inflicts any penalty or forfeiture, for not keeping mill-dams, according to the directions of this act, be, and is hereby repealed and made void. Penalty, 1 Geo. 1, repealed.

CHAP. VIII.

An Act, for amending the Act, intituled, An Act, concerning Tithables.

I. **WHEREAS**, the act of assembly made in the fourth year of the reign of the late queen Anne, intituled, *An Act concerning Tithables*, hath not been found effectual, to oblige persons to list their tithables, according to the intent and meaning of the said act; it having been practised by some persons, being owners of plantations in different counties, and parishes, when they have known, or been apprehensive, that the levies would run high in one of those counties, or parishes, by reason of public buildings, or other emergencies, to remove their tithables, some small time before the ninth of June, out of the said county, or parish, to some other plantation in another county, or parish; and afterwards, in a short time, have caused the same, or other tithables in their room, to return to the county, or parish, from whence they were so removed: And it hath been also practised by others, for avoiding the payment of their levies, to combine together not to list their tithables, and then covinously to inform, or sue, and obtain judgments against each other as concealers of tithables, whereby others have been prevented from prosecuting them for the same, to the great encouragement of such offenders: For the preventing of which evil practices, for the future, Preamble.

II. *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, That if any master or mistress of a family, or in his or her Tithables removed.

absence, or non-residence at the plantation, his or her attorney, or overseer, shall remove his or her tithables from one plantation to another, with intent to avoid the payment of levies in the county, or parish, from whence they were so removed; and shall afterwards cause the same, or other tithables in their room, to return to the plantation from whence they are removed, in manner as herein before is mentioned; every such master or mistress, attorney, or overseer, shall be adjudged and taken, and is hereby declared to be a concealer of the said tithables so removed, and shall be liable to all the penalties and forfeitures inflicted by the said recited act, or by this act, for concealing, or not listing of tithables: And that one moiety only of the penalties and forfeitures inflicted by the said recited act, shall go and be to the use of the informer; and the other moiety to the churchwardens of the parish where the offence shall be committed, to the use of the said parish. Any thing in the said act, or any other act, to the contrary, notwithstanding.

Mariners exempted from paying levies.

III. And for the ease and encouragement of mariners and seafaring persons, *Be it further enacted, by the authority aforesaid,* That all mariners and seafaring persons not being freeholders, commonly employed in navigation, and who actually pay towards the support of Greenwich hospital, out of their wages, shall, and are hereby exempted from being listed as tithables; and from paying any public, county, or parish levy. Any law, usage, or custom, to the contrary, notwithstanding.

CHAP. IX.

An Act, to restrain Sheriffs, and other Officers, from making unreasonable seizures and distresses: and for other purposes therein mentioned.

Preamble.

I. **WHEREAS**, divers sheriffs, and other officers, out of an evil design, upon writs of *fieri facias*, for small debts, have frequently seised slaves, and other estate of the defendants, of much greater value than the debt; and the collectors of officers fees, and of the public, county, and parish levies, have practised the same, in the distresses made by them, for such fees and levies; and some collectors of the parish levies,

after the year in which the levies ought to have been paid, have brought suits for the same, in the name of the churchwardens; and after judgment, have taken the body of the debtor in execution, although sufficient distress for such levies might have been had; to the great oppression, damage, and loss of many of his majesty's good subjects: For remedy of which abuses, for the future,

II. *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That* no sheriff, or other officer, to whom any writ of *fiery facias* shall be directed, shall hereafter take in execution any slave or slaves, unless the debt and costs, mentioned in such *fiery facias*, shall amount to the sum of ten pounds, or two thousand pounds of tobacco; provided there shall be shewn to such sheriff, or other officer, by the defendant, or any other person, sufficient goods and chattels of such defendant, within the bailiwick of such sheriff, or other officer, upon which he may levy the debt and costs mentioned in such *fiery facias*. And that no collector of any officers fees, or of any public, county, or parish levies, shall hereafter seise or make distress upon the slave or slaves of any person, for such fees or levies, if other sufficient distress can be had: And that no sheriff, or other officer, or collector of fees or levies, shall make or take unreasonable seizures or distresses. And if any sheriff, or other collector of fees or levies, as aforesaid, shall act contrary hereto; such sheriff, officer, or collector, shall be liable to the action of the party grieved, grounded upon this act; wherein the plaintiff shall recover his full costs, although the damages given, do not exceed forty shillings.

Slaves not to be taken in execution for less than 10l.

Nor for levies, or officers fees.

III. *And be it further enacted, by the authority aforesaid, That* no action or suit shall, hereafter, at any time, be brought for any parish levies, where distress may be had for the same: And that were any such levies shall not be paid to, or received by, the collector of the same, in the year in which such levies ought to be paid, it shall and may be lawful, to and for any succeeding collector of the parish levy, to make distress for the same, at any time, within three years after such levies first became due, and not afterwards. And that it shall not be lawful for any justice of the peace, at any

No action to be brought for levies or fees.

No justice to grant a *Ca. Sa.*

time hereafter, to grant an execution upon any judgment given by him, out of court, against the body of the debtor, or defendant. Any law usage, or custom, to the contrary, in any-wise, notwithstanding.

CHAP. X.

An Act, for the better regulating and collecting certain Officers fees; and for other purposes therein mentioned.

I. **BE** it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the commencement of this act, it shall and may be lawful, to and for the secretary of this colony, for the time being, and all county court clerks, sheriffs, coroners, constables, and surveyors, respectively, to demand, receive, and take, the several fees herein after mentioned and allowed, for any business by them respectively done, by virtue of their several offices; and no other fees whatsoever: (that is to say,)

Secretary's
fees.

To the Secretary.

Current Money
s. d.

For making out, sealing, and recording at large, a patent for land, before the same shall be recorded,	8 0
For making out, sealing, and recording at large, a patent commonly called a double patent, before the same shall be recorded,	12 0
For parchment for every patent,	2 6
For recording every warrant to an escheat, and the inquisition thereupon,	11 6
For a copy thereof, the same.	
For every pass,	10 0
For every freedom for a ship or vessel,	10 0
For every testimonial,	10 0
For every writ, in the nature of an <i>ad quod damnum</i> , to be paid upon issuing such writ,	5 0
For recording the same, with the inquisition thereupon, to be paid before the inquisition be recorded,	11 6
For a copy of such writ and inquisition, to be paid down,	5 0

Pounds of Tobacco.

For a copy of a double patent,	45
For a copy of any other patent,	30
For the probation of any testament, and recording the same; for entring the orders for appraising the estate, recording the inventory, writing, and sealing the probat, or any other matters concerning the same: Or for a commission of administration of the goods of any person dying intestate; for entring the order or orders for appraising the estate, recording the inventory or for any other matter concerning the same, where the appraisement doth not amount to above fifty pounds,	250
Or where the appraisement exceeds that value, or there is no appraisement,	350
For a copy of a probat, or commission of administration,	40
For recording the certificate of a probat, or administration,	40
For a copy of a will, or inventory,	40
And if the original is contained in more sheets than one, for a copy of every such sheet.	30
For every hue and cry signed by the governor,	30
For a copy of an act of assembly,	40
For a copy of an account,	20
For recording a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the general court,	150
For a copy of such deed or deeds, with the indorsements thereon; and for a certificate of the acknowledgment or proof, and recording,	90
For issuing a commission to take the acknowledgment and privy examination of a feme covert; and recording it, with the return of the commissioners,	50
For a copy thereof,	30
For recording a deed concerning slaves, or any personal matter only,	70
For a copy thereof, with the certificate of the acknowledgement or proof, and recording,	40
For recording a letter of attorney, acknowledged and proved in the general court, and every thing relating to it,	70

Pounds of Tobacco.

For a copy thereof,	40
For recording a bond, with condition, other than for the performance of covenants in deeds of conveyance or settlement of land,	40
For a copy of a bond, with condition,	20
For recording a certificate of rights,	15

In Actions, and other Suits.

For every <i>dedimus potestatem</i> , writ of error <i>superseas</i> , or <i>scire facias</i> ,	25
For taking bond, or issuing a writ of error, or <i>superseas</i> ,	25
From every other writ in any action or suit whatsoever.	20
For entring the sheriff's return, and entring the bail by him returned, in the rule book,	20
For entring special bail,	20
For entring the personal appearance of the plaintiff, or defendant; or the appearance of an attorney for either party,	10
For entring security for costs, for persons out of the country,	20
For filing a declaration, and every plea or demurrer in any cause, to the making up of the issue; and for filing errors upon appeals, writs of error, or <i>superseas</i> .	20
For a copy of every declaration, plea, or demurrer; or of errors,	20
For every rule entered in the rule book,	20
For a copy of every rule,	10
For every order in court before trial,	10
For a copy of the same,	10
For filing papers of each party, in any action or suit,	15
For docketing every cause on the docket, to be charged but once,	10
For every trial, swearing the jury and witnesses; and recording a general verdict,	50
For administering an oath or affirmation, in court, except witnesses, to a jury,	10
For every trial, where there is a special verdict; swearing the witnesses and jury; and recording such verdict,	75
And where there is no jury, but a case agreed,	25

Pounds of Tobacco.

For swearing witnesses for each party, in every cause where there is no jury,	15
For copy of a case agreed, or notes of a special verdict,	25
For entring every order made in court, after verdict or demurrer join'd,	10
For entring every continuance on the court docket,	10
For entring every judgment,	10
For recording the report of auditors, when it is desired,	40
For making a complete record in every cause, inserting a case agreed, or special verdict at large, from the notes; and all deeds and other evidences at large, for every twenty words,	1
For a copy thereof, or any part thereof the same.	
For filing bill, answer, replication, or other pleadings in chancery, each,	15
For a copy thereof, for every twenty words,	1
For entring every decree,	10
For drawing up every decree at large; entring the substance of the bill, answer, and other pleadings; the substance of the evidence, and the decree thereupon, for every twenty words,	1
For filing the depositions in every cause, in behalf of each party,	15
For copy of the depositions for every twenty words,	1
For a recognizance in court,	20
For entring an appeal to England, and taking bond,	50
For filing the record upon an appeal, writ of error, or <i>supersedeas</i> , from a county court, or any inferior court,	15
For a copy of such record, for every twenty words,	1
For filing the return of a <i>certiorari</i> , or <i>habeas corpus</i> ,	15
For taxing the costs in any action or suit, and a copy thereof,	20
For every petition for lapsed land; for writing it, and issuing a summons thereon,	50
For every order thereon,	15
For recording any thing, not herein particularly mentioned; or for a copy thereof, for every twenty words,	1
For a search for any thing, if above a year's standing; or reading the same, or any part thereof, if required.	10

Pounds of Tobacco.

For every order to a witness for attendance, to be charged to the party against whom such order goes,	10
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Which said several fees herein before expressed, shall be charged to the party at whose instance the business shall be performed, except where it is otherwise directed. And that the fees herein after mentioned, and allowed to the secretary, shall be charged to the several counties respectively, for whose service the business shall be performed; and shall be, by the justices, levied on the inhabitants thereof: (that is to say,)

Pounds of Tobacco.

For a commission of the peace, and <i>dedimus</i> . to administer the oaths, and recording the same,	160
For a commission of oyer and terminer, and <i>dedimus</i> . to administer the oaths; to be repaid the county by the public,	100
For a writ for election of burgesses,	350
For filing an inquisition, on view of a dead body, and recording the same; which shall be repaid the county, out of the estate of the deceased, if the same be sufficient,	50

Clerks' fees.

*To the County Court Clerks.**Pounds of Tobacco.*

For recording deeds of lease and release, for conveying or settling lands only, or together, with slaves and personal estate; bond to perform covenants; certificate of the proof or acknowledgement, as the case is, and all matters relating thereto,	150
For a copy thereof,	55
For recording every deed of feoffment, or bargain and sale, or other single deed, for conveying or settling lands and tenements only, or together with slaves and personal estate; bond to perform covenants; certificate of the proof or acknowledgement, as the case is, and all matters relating thereto,	100
For a copy thereof,	40
For issuing and recording a commission, to take	

Pounds of Tobacco.

the acknowledgement and privy examination of a feme covert, with a certificate of the commis- sioners, if such commission be required,	40
For a copy thereof,	20
For recording a patent,	50
For a copy thereof,	25
For recording a deed for land from the proprietors of the Northern Neck,	40
For recording a deed concerning slaves, or any personal matter or thing only, with the certifi- cate of its proof or acknowledgement,	40
For a copy thereof,	30
For recording a letter of attorney,	30
For a certificate of the proof or acknowledgment thereof,	10
For a copy of a letter of attorney, with such cer- tificate,	25
For recording a bond, with condition, other than for the performance of covenants, in deeds of conveyance or settlement of land,	20
For a copy of a bond with condition, other than an ap- peal bond the same.	
For a copy of any other obligation, or promisory note,	10
For the probation of any will or testament, and re- cording it; entring the order or orders for ap- praising the estate; recording the inventory; and for any other matter concerning the same: Or for a commission of administration of the goods of any person dying intestate; for entring the order or orders for appraisement; recording the inventory; and for any other matter con- cerning the same, where the appraisement doth not amount to above ten pounds.	50
Where the appraisement exceeds that value, and is under one hundred pounds,	150
And where it shall exceed one hundred pounds, or there shall be no appraisement returned within twelve months,	250
For a copy of a will, or inventory, if the original is contained in one sheet,	30
If the original is contained in more than one sheet, for a copy of every such sheet, besides the first,	20
For a copy of an act of assembly,	40

Pounds of Tobacco.

For recording the age of a servant or slave, adjudged in court,	10
For a certificate thereof if required,	8
For a certificate of any person's departure out of the county,	15
For attending a court for examination of criminals and trial of slaves, if a court is held for that purpose; to be paid by the county, and repaid by the public,	200
For a copy of a list of tithables taken by a justice in his precinct,	20
For an ordinary license, and bond,	50
For a copy of the rates of Liquors,	15
For a marriage license, certificate, and bond,	50
For proving rights for land, produced at one time, and belonging to one person, and certificate thereof,	13
For every search for any thing, if a copy be not required, or the record read,	5

In Actions, or other Suits.

For every writ, other than such as are herein after particularly mentioned,	10
For a copy of any such writ,	5
For every writ of execution, or <i>scire facias</i> ,	15
For a copy thereof,	8
For recording the return thereof,	8
For a writ of attachment, in any action,	15
For recording the return thereof,	15
For an attachment granted by a justice of the peace, returnable to court, and recording the return, and putting the same on the docket,	20
For every summons, to summon a garnishee on such attachment,	10
For filing every bail bond, or entring the bail returned,	10
For docketing every cause, except by petition, to be charged but once,	5
For a copy of the return of any writ,	3
For entring special bail,	10
For entring security for costs, for persons out of the country,	10
For entring the appearance of the defendant, or defendants, in any suit, except by petition,	5
For entring an attorney, for each party,	5

Pounds of Tobacco.

For every petition, declaration, or other pleadings, except in suits by petition, for debt, detinue, assumpsit, or trover, whether wrote by the clerk, or not,	10
For a copy of any declaration, special pleading, or demurrer,	10
For a copy of a plea, if the general issue,	3
For every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict,	40
For every trial, where there is a special verdict, or case agreed, and recording the same,	65
For swearing the witnesses, in every other cause, where there is no jury, or case agreed, except by petition,	10
For filing the papers of each party, in every cause, except by petition; and where there is a jury, or case agreed,	10
For a copy of a special verdict, or case agreed, and every thing therein set forth; or for making up a full and complete record, for every thirty words.	1
For entring every judgment, or for a copy thereof,	10
For filing bill, answer, replication, and other pleadings, in chancery, for each,	10
For a copy thereof, for every thirty words,	1
For a commission to examine witnesses,	25
For attending, and writing the depositions taken thereon, if required,	100
The same for attending, and writing depositions taken against inspectors before justices of the peace.	
For entring every decree in chancery,	15
For filing the depositions in any suit for each party,	5
For every deposition taken in court,	10
For a copy of a deposition,	10
For administering an oath in court, not relating to the trial of any cause there depending, and certifying the same,	10
For every recognizance in court,	10
For entring the order or orders in any cause in one court,	15
For entring every order for attendance of witnesses,	10
For a copy of any order,	10
For recording the report of a jury in the country, surveyor, auditor or viewers,	20
For a copy thereof,	20

Pounds of Tobacco.

For taxing a bill of costs, and copy thereof,	11
For a copy of an account,	10
For entring an appeal and taking bond to prosecute it,	20
For a copy of the bond,	10
For returning an appeal, and security, to the secretary's office,	30
For the copy of the proceedings of the cause wherein the appeal is granted, for every thirty words,	1
For recording the acknowledgement of satisfaction of a judgment,	10
For entring each order for a witness's attendance; to be charged to the party, in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover.	10
For a copy thereof; to be taxed and charged in like manner,	10
For an attachment thereon; to be charged to the party against whom such attachment shall be issued,	10
For the whole fee chargeable for every petition for debt, detinue, assumpsit, or trover, and all the proceedings therein, including a copy of the judgment, and taxing costs if required; except the respective fees for summoning witnesses, entring attornies, for every order for continuance, and for issuing execution, where any of these matters happen.	50
For entring an attorney in such petitions; to be paid by the party by whom such attorney is employed, and not to be taxed in the bill of costs,	5
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	1
For reading any order or record, half the fee, as for a copy.	

Rule in taxing costs.

II. And, if any plaintiff or defendant, or his or her attorney, shall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cause, or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although such party recover: And where more attornies than one, shall be employed in any cause, on one side, if such attornies take out more than one copy

of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs, neither shall the clerk tax any fee in the bill of costs, for entring any more than one attorney, although costs shall be adjudged against the adverse party.

Pounds of Tobacco.

For all public services of the clerk, viz. Entring and issuing copies of orders for appointing surveyors of highways, constables, grand-juries, taking the list of tithables, attending orphans courts, entring guardians accounts, and all matters relating thereto, binding out poor orphans and appointing them guardians; entring the levy, and copies thereof, and of the list of tithables, for the collector; and for entring and issuing the orders for recommending sherifs, and justices, and for processioning; and other public services, for which no particular fee is allowed; to be levied annually, by the justices, upon the county, besides cask, 1200

III. And when any person or persons presented by the grand-jury, or churchwardens, shall be discharged of any such presentment, the clerk shall charge no fees for the same, or any matter relating thereto; but the same shall be deemed to be included in the public services: But if the party or parties so presented, shall be convict; then, in such case, the clerk shall charge him, her, or them so convict, with all the fees accruing thereon. Presentments.

IV. And, to the end all persons chargeable with the payment of any of the fees aforesaid, may certainly know for what the same are charged, *Be it further enacted*, That none of the fees herein before mentioned, shall be payable by any person whatsoever, until there shall be produced, or ready to be produced, unto the person owing, or chargeable with the same, a bill or account, in writing, containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable, respectively; in which said bill or account, is and shall be expressed, in words at length, and in the same manner as the fees aforesaid, are allowed by this act, every fee, for which any money or tobacco is or shall be demanded. Fee bills to be produced.

Sheriff's
fees.

To the Sheriff.

Pounds of Tobacco.

For an arrest, bond, and return,	30
For returning a <i>capias, non est inventus</i> ,	10
For serving a <i>seire facias</i> ,	15
For serving any person with an order of court, and making return thereof,	15
For pillorying any person,	20
For putting into the stocks,	10
For ducking any person,	20
For putting in prison and releasement,	20
For serving a <i>subpoena</i> in chancery,	15
For serving a summons upon a petition for debt, detinue, assumpsit, or trover,	15
For serving a <i>subpoena</i> for a witness, in any cause in court, except summoned in court,	10
For summoning an appraiser, auditor, viewer, or witness, to any deed, will or writing, if required to be summoned, but not else,	10
For summoning and impannelling a jury, in every cause wherein a jury shall be sworn,	50
For going to Williamsburg, for a commission of <i>oyer and terminer</i> , for every mile, besides ferriages; to be paid by the county, and repaid by the public,	2
The same for returning.	
For coming to and attending the general court, with the <i>venire</i> , and return of the <i>venire facias</i> , the same as is allowed to a <i>venire-man</i> ; to be paid by the public.	
For summoning the justices of the county, and attending the court of <i>oyer and terminer</i> ; or for the examination of a criminal; to be paid by the county, and repaid by the public,	200
For the removal of every prisoner from the county goal, to the public goal, for every mile; to be paid, and repaid, as aforesaid,	5
For executing each condemned person, and all fees incident; to be paid, and repaid, as aforesaid,	250
For summoning a jury, upon any inquisition, survey, writ of dower, or partition, if the jury appear,	150
For making a return of a writ of dower, partition, or in the nature of an <i>ad quod damnum</i> ,	50
For every day's attendance upon a jury, in the country, after they are sworn,	50

Pounds of Tobacco.

For serving a writ of <i>habere facias scisnam</i> , or <i>habere facias possessionem</i> ,	50
For serving an attachment upon the body,	30
For serving a declaration in ejectment, if against one tenant,	30
And if against more tenants than one, for serving the declaration on every other tenant,	15
For whipping a servant; to be paid by the owner, and repaid by such servant,	20
For whipping a free person, by order of court; to be paid by such person, the same.	
For whipping a slave by order of court, to be paid by the county, and repaid by the public;	20
For serving an execution for any debt due in tobacco, five per cent. for the first thousand, and two per cent. for all above one thousand pounds: If due in money, five per cent. upon the first hundred pounds, and two per cent. for all above one hundred pounds.	
For serving an attachment upon the goods, if sold; the same fee, as for serving an execution, if not sold,	30
For serving and returning a general court writ, summons, or order, where the same is not com- prehended in any of the foregoing articles,	30
For making proclamation as the law directs, in proving of wills, or proceeding to outlawry,	20
For selling a servant at public outcry, by order of court, and all fees incident,	20
For keeping and providing for a debtor in goal, each day,	10
For keeping and providing for a runaway, or cri- minal in goal each day; to be paid by the coun- ty, and repaid by the public,	5
For serving a justices warrant,	10
For summoning a witness before a justice,	5
For all public services of the sheriff, to wit: At- tending the orphans courts, courts of claims and grievances, impannelling grand juries, publish- ing writs for election of burgesses, and attend- ance; serving all public orders of court, and all other public and county service: To be levied annually, by the justices, on the county, besides eask.	1200

Present-
ments.

V. And when any person or persons presented by the grand jury, shall be discharged of such presentment, the sheriff shall charge no fees for the same; but it shall be deemed to be included in the public services: But if the party or parties so presented, shall be convict; then, in such case, the sheriff shall charge him, her, or them, so convict, with all the fees accruing thereon.

To the Coroner.

Pounds of Tobacco.

Coroner's
fees.

For taking an inquisition on a dead body; to be paid out of the deceased's estate, if the same be sufficient, if not, by the county, 133
For all other business done by him, the same fees as are allowed the sheriff for the like services.

To the Constable.

Constable's
fees.

For serving a warrant, 10
For summoning a witness, 5
For summoning a coroner's jury and witnesses, 50
For putting into the stocks, 10
For whipping a servant; to be paid by the owner, and repaid by the servant, 10
For serving an execution or attachment, returnable before a justice, 10
For whipping a slave; to be paid by the overseer, if the slave is under an overseer; if not, by the master, one shilling, or 10

To the Surveyor.

Surveyor's
fees.

For every survey by him made, plainly bounded as the law directs; and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed one thousand acres of land, 500
And for every one hundred acres contained in one survey, and above the first thousand, 30
For surveying a lot in town, 20
And where the surveyor shall be stopped or hindered from finishing a survey by him begun; to be paid by the party who required the survey to be made, 250
For running every dividing line between parties, 250
For surveying an acre of land for a mill, 100
For every survey of land formerly patented, and which

shall be required to be re-surveyed, and for a plat thereof, delivered as aforesaid, the same fee as for land not before surveyed. And where a survey shall be made, of any lands which are to be added to other lands, in an inclusive patent, the surveyor shall not be paid a second fee for the land first surveyed; but shall only receive what the survey of the additional lands shall amount to. And where any surveyor shall have actually made surveys of several parcels of land adjoining, and delivered several plats, if the party shall desire one inclusive plat thereof, the surveyor shall make out such plat for ten shillings.

VI. *Provided always, and be it enacted,* That were any person shall employ a surveyor, and shall have received a plat of the lands surveyed, and afterwards shall assign the land to any other, either before or after obtaining a patent for the same; if such person, for whom the land was first surveyed, shall not have paid for the said survey, it shall and may be lawful, for the sheriff of any county, wherein such assignee shall reside at the instance of such surveyor, to make distress upon the slaves, goods and chattels of such assignee, in like manner, as is herein after provided, for surveyors, or other officers fees, refused or delayed to be paid. Land assigned.

VII. *And be it further enacted,* That the clerk of the secretary's office shall cause to be set up, in some public place in that office, and there constantly kept, a fair table of the secretary's fees, herein before mentioned; on pain of forfeiting two thousand pounds of tobacco, for every general court day, the said table shall be missing, through his neglect. And that the clerk of every county court shall, in like manner, set up a fair table of all the other fees, herein before mentioned, in the court-house of his county; to be there constantly kept, on pain of forfeiting one thousand pounds of tobacco, for every court day the same shall be missing, through his neglect. Both which penalties shall be to the person or persons who shall inform or sue for the same; and shall or may be recovered in any court of record, within this dominion, by action of debt, or information. Tables of fees to be set up.

VIII. And that if any officer whatsoever, hath heretofore taken any greater fee, than was by the laws then in force allowed. or hereafter shall claim, charge, demand, exact, or take any more or greater fees for any Penalty for overcharging.

writing, or other business by him done, within the purview of this act, than herein before set down, and ascertained; or if any officer shall charge, or demand and take any of the fees herein before mentioned, where the business for which such fees are chargeable, shall not have been actually done and performed, to be proved by the fee book of such office, upon his corporal oath; such officer, for every such offence, shall forfeit and pay to the party injured, besides such fee or fees, two hundred pounds of tobacco for every particular article or fee so unjustly charged, or demanded, or taken: To be recovered, with costs, in any court of record within this dominion, by action of debt, or information; provided the same be sued for, within twelve months after the offence shall be committed.

Proviso.

IX. *Provided always.* That nothing herein contained, shall be construed to inflict any penalty on any of the said officers, for demanding and taking the fees respectively allowed to be taken by them, by one act of assembly made in the tenth year of his majesty's reign, intituled, *An act, for the better regulating and collecting certain officers fees; and for other purposes therein mentioned;* at any time before the publication of this act, for which two months after the commencement thereof, is hereby allowed.

Accounts of
fees to be de-
livered to
the sheriffs.

X. And for the better collecting the said tobacco fees, *Be it further enacted,* That the clerk of the secretary's office, and of every county court respectively, and every surveyor, shall, annually, before the twentieth day of January, deliver, or cause to be delivered, to the sheriff of every county in this colony, respectively; their accounts of fees due from any person or persons residing therein, which shall be signed by the clerks or surveyors respectively; and the said sheriff is hereby required and impowered to receive such accounts; and to collect, levy, and receive the several quantities of tobacco therein charged of the persons chargeable therewith: And if such person or persons, after the said fees shall be so demanded, shall refuse or delay to pay the same, 'til after the tenth day of April, in any year, the sheriff of that county, wherein such person inhabits, or of the county in which such fees became due, shall have full power, and is hereby required to make distress and sale of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that

county where such person inhabits, or where the said fees became due: And the sheriff of any county, for all fees which shall remain due and unpaid after the said tenth day of April, in any year, either to himself, or the sheriff of another county, which shall be put into his hands to collect, as aforesaid, is hereby authorised and impowered to make distress and sale of goods and chattels of the party refusing or delaying payment, in the same manner, as for other fees due to any of the officers herein before mentioned. But no action, suit, petition, or warrant, from a justice, shall be had or maintained for secretary's, county court clerks, or surveyor's fees; unless the sheriff shall return, that the person owing, or chargeable with such fees, hath not sufficient, within his bailiwick, whereon to make distress; except where the clerk, or other officer aforesaid, shall have lost his fee book, by fire, or other misfortune, so that he be hindered from putting his fees into the sheriff's hands to collect; and in that case, any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done, in pursuance of this act, he may plead the general issue, and give this act in evidence.

XI. That the sheriff of every county shall, upon or before the last day of May, in every year, account with the secretary, or his agent, and the clerk of the respective county courts, and the respective surveyors, for all fees put into his hands, pursuant to this act, and pay the same, abating six per cent, for collecting: And the secretary is hereby required to appoint an agent in every county, to receive the sheriff's account, and all tobacco due to him. And if any sheriff shall refuse to account, or pay the whole account of fees put into his hands, after the deductions, aforesaid, are made, together with an allowance of what is charged to persons not dwelling or having no visible estate in his county, it shall and may be lawful for the secretary, or clerk, or surveyor, upon a motion made in the next succeeding general court, or in the court of the county of such sheriff, to demand judgment against such sheriff, for all fees wherewith he shall be chargeable, by virtue of this act; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion.

Sheriff's to
account.

Attorney's
fee to be
taxed.

XII. *And be it further enacted,* That the respective county courts, in every cause, except where the same shall be brought by petition, where the plaintiff shall recover, or be nonsuit: or where his suit shall be dismissed, shall allow in the bill of costs fifteen shillings, or one hundred and fifty pounds of tobacco, for an attorney's fee, if the party employed one; except against executors or administrators, or where the plaintiff may not recover more costs than damages.

In force for
four years,
&c.

XIII. *And be it further enacted,* That this act shall continue and be in force from the end of this session of assembly, and remain in force four years, and from thence to the end of the next session of assembly; and shall be deemed a public act.

CHAP. XI.

An Act for licensing Pedlars; and preventing frauds in the duties upon Skins and Furs.

Preamble.

I. **WHEREAS** divers vagrant and idle people are frequently found travelling about the country, under the name of pedlars; and great frauds and abuses are committed and carried on by such persons, particularly in the exportation of skins and furs, without paying duty. For remedy whereof:

Pedlars to be
licensed.

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the first day of May next, it shall not be lawful for any pedlar, or other person, going from place to place, or to other mens houses, and carrying to sell, or exposing to sale, any goods, wares, or merchandizes; to sell or dispose of, by way of barter or exchange, or in any other manner, any such goods, wares, or merchandizes, without a license for so doing, to be obtained in the following manner, that is to say: If such pedlar, or other person, be an inhabitant of this colony, such license shall be granted by the court of the county where his habitation or usual place of residence is: And if he be an inhabitant of another country, such license shall be granted by the court of that county into which such pedlar, or other person shall first come, upon his arrival into this colony: Which license,

the said county courts are hereby respectively impowered to grant, or refuse, at their discretion. And every license so granted, shall be signed by the clerk of the court granting the same.

III. *Provided always*, That no such license shall be granted for a longer term than one year at a time: And that the person to whom the same is granted, shall first enter into bond, with one good and sufficient security, to our sovereign lord the king, his heirs and successors, in the penalty of twenty pounds, with condition, that he will not export, or cause to be exported, with his privity or knowledge, any skins or furs, either by land or water, without first paying the duties imposed on such skins and furs, by one act of assembly, made in the fourth year of the reign of the late queen Anne: Which said bond shall be lodged in the clerk's office of the county where the same shall be given. The manner of obtaining it.

IV. *Provided also*, That before any such license shall be granted, there shall be paid down, by the person desiring the same, the sum of ten shillings for the use of the governor, or commander in chief of this colony, for the time being; and the further sum of five shillings to the clerk, for writing the bond and license aforesaid, and no other fee whatsoever. And for encouraging prosecutions for the breach of any such bond. The fees for the same.

V. *Be it further enacted*, That one moiety of the penalty shall be to the use of his majesty, his heirs and successors, for the better support of the college of William and Mary, in Virginia; and the other moiety to any person or persons that will make information of any such breach: To be recovered in the name of his majesty, his heirs and successors, by action of debt, in any court of record within this dominion. And that the clerk of every county court shall, in the months of April, and October, yearly, transmit to the secretary's office, a list of all bonds entered into, in pursuance of this act; and of all recoveries or judgments had or given on seizures, or for breach of such bonds, if any shall happen to be. Penalty appropriated. Lists of bonds, &c. to be transmitted.

VI. *And be it further enacted, by the authority aforesaid*, That if any pedlar, or other person, as aforesaid, after the said first day of May, be found travelling and trading, without such license, as herein before is mentioned; such person shall forfeit and pay, for every several dealing or trading, the sum of twenty shillings, Penalty on trading without license.

to the use of the informer: To be recovered with costs, before any justice of the peace of this colony. And in case such person, after conviction, shall refuse or delay to make present payment of the said penalty and costs, either in money, or goods, to the value, in the judgment of the justice before whom the conviction shall be; it shall and may be lawful for such justice to order the person so convicted, twenty lashes on his bare back, well laid on: And he shall be from thenceforth discharged from the payment of the said penalty, for that time. And in case any pedlar, or other person, trading as aforesaid, upon demand made by any inhabitant of this colony, shall refuse to produce and shew his license, the person so refusing, shall, for every such refusal, forfeit and pay five shillings to the informer: To be recovered before any justice of the peace.

Collectors to
be appoint-
ed.

VII. *And be it further enacted by the authority aforesaid,* That the governor or commander in chief of this colony, for the time being, with the advice of the council, shall and may appoint one or more collector or collectors of the duties upon skins and furs, exported by land, who shall reside near the frontiers of this colony; which collectors shall have and be allowed a salary of ten in the hundred, for receiving the said duties; and shall account for the same, in such manner as other collectors of the said duties are obliged to account. And in case any pedlar, or other person, shall be found travelling towards any other of his majesty's colonies with any skins or furs, beyond the place where such collector or collectors usually reside; and upon demand made by any inhabitant of this colony, shall refuse to produce and shew a certificate, that the duties of the said skins and furs have been paid, such skins and furs shall and may be seized by any person or persons; and the person or persons seising the same, shall immediately carry them to the next justice of the peace, who is hereby empowered and required to receive the same. And in case the owner or proprietor of the said skins and furs, shall not, within two months after such seizure, make sufficient proof before such justice, or before the court of the county where such seizure shall be made, that he has paid the duties for such skins and furs; the same are hereby declared to be forfeited, and shall and may be sold; by order of the said county court, to the highest bidder: And one half the money arising

Skins and
furs may be
seized.

by such sale, after charges deducted, shall be to the use of his majesty, his heirs and successors, for and towards the better support of the said college of William and Mary: and the other half to the person who shall seise the same. And in case the owner or proprietor of such skins or furs, as aforesaid, shall within the time aforesaid, make due proof, before the said justice, or court, that the duties for the same have been duly paid; the said justice shall, and is hereby required to deliver back the said skins and furs to the said owner or proprietor, upon paying down the sum of ten shillings to the person who shall seise the same, as aforesaid.

VIII. *Provided nevertheless*, That nothing in this act contained, shall extend, or be construed to extend, to any inhabitant of this colony, trading only in beef or pork, or carrying any goods or commodities of the growth or manufacture of this colony, to any place or places, for selling the same: But that every such inhabitant may carry and sell such goods or commodities, in the same manner as he might have done, if this act had never been made.

Not to extend to traders in beef or pork.

CHAP. XII.

An Act, to encourage Settlements on the Southern Boundary of this Colony.

I. **WHEREAS** the lands lying upon Roanoke river, on the southern boundary of this colony, are for the most part unseated and uncultivated; and a considerable number of persons, as well of his majesty's natural born subjects, as foreign protestants, are willing to import themselves, with their families, and effects, and to settle upon the said lands, in case they can have suitable encouragement for their so doing: And whereas the settling that part of the country, will add to the strength and security of the colony in general, and be a means of augmenting his majesty's revenues of quit-rents: therefore, for encouraging the said intended settlement,

Preamble.

II. *BE it enacted by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That*

Exemption from levies.

May pay fees
in money, &c.

Letters of na-
turalization
may be gran-
ted.

Poor to be
supported.

all and every person and persons whatsoever, who, within ten years next after the passing this act, shall import themselves into this colony, and settle upon Roanoke river aforesaid, on the south branch of the same, above the fork thereof; and on the north branch of the said river, above the mouth of little Roanoke, otherwise called Licking Hole; including all the lands on all the said branches, and the lands lying between them, now deemed to be in the county of Brunswick, and parish of St. Andrew, shall be exempted from the payment of public, county, and parish levies, until the expiration of the said ten years; and be at liberty, at all times hereafter, to pay and discharge all officers fees wherewith they shall be chargeable, in current money, at the rate of three farthings per pound for tobacco, without any deduction: And at all times, after the expiration of that time, shall be at liberty, to pay and discharge their public, county, and parish levies in current money, at the same rate.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful, for the governor, or commander in chief of this colony, for the time being, to grant letters of naturalization to any alien settling there, as aforesaid, upon a certificate from the clerk of any county court, of his or her having taken the oaths appointed by act of parliament to be taken, instead of the oaths of allegiance and supremacy; and taken and subscribed the oath of abjuration, and subscribed the test in like manner, as he may do, upon taking and subscribing the same before himself. Any law, usage, or custom, to the contrary, notwithstanding.

IV. *Provided always,* That the persons so settling upon the lands herein before mentioned, shall, during the said ten years, support their own poor; and make and maintain their own roads and bridges, without any charge upon the rest of the said parish of St. Andrew, and county of Brunswick; and shall not, during that time, be entitled to any reward for killing of wolves.

CHAP. XIII.

An Act, declaring the Law concerning Attachments: and altering the Court Days, in the Counties of Accomack, and Amelia.

I. **WHEREAS**, by one clause of an act of assembly, made in the ninth year of the late queen Preamble.
Anne, intituled, An Act, for establishing County Courts; and regulating and settling their proceedings therein; it was enacted, That it should and might be lawful, for any justice of the peace, upon complaint made to him by any person, that his debtor was removing himself privately, or absconded and concealed himself, so that the ordinary process at law could not be served against him, to grant an attachment against the estate of such debtor, or for so much thereof, as should be of value sufficient to satisfy the debt of the party praying such attachment, returnable to the next county court: But sometimes, from a misconstruction of the said clause, it was judged not to extend to any debts due or owing from any person or persons to the person so absconding, or concealed; but that in such cases, bills in chancery should be exhibited, for recovery of the same, which must necessarily be attended with great expense and delay, and different opinions at times, have prevailed in many county courts of this colony, touching the same. For prevention whereof, for the future:

II. *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and* Attachments how to be executed.
it is hereby enacted, by the authority of the same, That when any person shall obtain any attachment for debt, returnable, as aforesaid, directed to the sheriff, or other proper officer of the county; that it shall and may be lawful, for such sheriff, or other proper officer, to levy the same in the hands of any person or persons indebted to the person so absconding, to and for the use of the person complaining, as he might or could have done, on any other part of his estate: And the sheriff, or other officer, shall summon such garnishee or garnishees to appear at the next court to be held for the said county, there to testify, on oath, what he or she is indebted unto such person: And it shall and may be lawful, for such county court, in all such cases, upon

examination, as aforesaid, without other process, to enter up judgment, and award execution thereupon, for the complainant, against all and every such garnishee and garnishees, for all such sums of money or tobacco, that shall appear to them, to be justly, and *bona fide*, due from him or them, to the person absconding, or concealed; or for so much thereof, as shall be of value sufficient to satisfy the just debt and costs of the complainant. Any law, custom, or usage, to the contrary, or seeming to the contrary, in any wise, notwithstanding

Court days
altered.

III. And whereas the court days of the counties of Accomack, and Amelia, as they are now settled, are found to be inconvenient, *Be it further enacted, by the authority aforesaid, That from and after the twenty fifth day of March next, the court of the said county of Accomack shall be held on the last Tuesday, and the court of the said county of Amelia on the third Friday in every month. Any law, custom, or usage, to the contrary thereof, notwithstanding.*

CHAP. XIV.

An Act, for the better preservation of the breed of Deer: and preventing unlawful Hunting.

Preamble.

I. **WHEREAS** the laws heretofore made, *For preserving the breed of Deer.* have not had the desired effect, many disorderly persons making a practice of killing them merely for the sake of the skins, whilst they are feeding on the moss growing on the rocks in the rivers, leaving the flesh to rot; whereby wolves, and other noxious beasts, are brought down among the stocks of cattle, hogs, and sheep, of the upper inhabitants, to their great annoyance and damage. And whereas the keeping of hounds going at large, is found destructive to the breed of deer, by killing not only the does, while they are big with young, but also the fawns, after they are fallen. And it is also found, by experience, that the making large circles, and setting the same on fire, round the coverts where the deer usually lodge, commonly called fire-hunting, is not only destructive to the breed of deer, but also to the young

timber, and food of the cattle. For remedy of which mischiefs:

II. *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the passing of this act, it shall not be lawful for any person whatsoever, to hunt, shoot or kill, any buck, between the first day of December, and the last day of July, which shall be in any year; nor to hunt, shoot, or kill, any doe or fawn, between the first day of January, and the last day of September, in any year. And if any person whatsoever shall presume to hunt, shoot, or kill, or destroy, any such bucks, doe, or fawn, running wild in the woods, within the times herein before respectively limited; or shall buy or receive the same of any Indian, or other person; every such person so offending shall forfeit and pay the sum of twenty shillings current money, for every buck, doe, or fawn, so killed, bought, or received; recoverable before any justice of the peace in the county where such offence shall be committed, upon conviction, by the oath of one sufficient witness, or on confession of the party. And if any servant or slave, by command of his or her master, mistress, or overseer, shall, so hunt, shoot, or kill, or buy or receive any deer so killed; the party giving such command, shall be liable to the like penalties respectively: And if such servant or slave cannot prove such command, he or they shall receive, by order of such justice of the peace, for every such offence, twenty lashes on his bare back, well laid on; unless security be given for payment of the fine within six months after such conviction.

Time limited for killing deer.

III. *Provided always,* That it shall and may be lawful, to and for any freeholder or house keeper to kill any kind of deer in his corn fields, or other inclosed grounds, where wheat, peas, or other grain is growing, without being liable to any penalty for so doing.

Proviso.

IV. *Provided also,* That nothing in this act contained, shall extend, or be construed to extend to any person living, or being upon the frontiers of this colony, who shall kill any deer for food, for the necessary subsistence of himself or family; so as such person do not sell or dispose of the skin of any deer so killed: And in case any person shall be prosecuted for killing deer within the time prohibited by this act, and such person

May be killed for necessary food.

shall alledge, that he killed such deer for food, for the necessary subsistence of himself or family, the *onus probandi* shall lie on the person so prosecuted.

Penalty on
buying red
skins.

V. *And be it further enacted, by the authority aforesaid,* That if any person whatsoever shall buy or receive into his or her house, any deer skin or skins, which shall have been killed within the time herein before limited, and are commonly called or known by the name of red skins; he or she so offending, and being thereof lawfully convicted before a justice of the peace, in manner aforesaid, shall forfeit and pay ten shillings current money, for every skin so bought or received. And for the further preventing the buying and receiving such red skins,

Constables
may search
for them.

VI. *Be it enacted, by the authority aforesaid,* That every constable, within this dominion, shall have full power and authority, by virtue of this act, to search in all suspected places, for all red skins of any deer killed, contrary to the directions hereof, and to bring the same before some justice of the peace of the county where the offender resides: And if such offender shall not make proof, that such skin was taken from a deer killed within his or her inclosed grounds, tended, as aforesaid; such justice shall immediately give judgment against the offender, for the penalty aforesaid.

Hounds not
to run at
large.

VII. *And be it further enacted by the authority aforesaid,* That it shall not be lawful, for any person to keep any beagles or hounds running at large; but such beagles or hounds shall be constantly kept in kennels, or couples, or with clogs, except at such times as they are used in hunting, by the owner or his servants, under the penalty of five shillings, for every beagle or hound, so going at large.

Penalty for
fire-hunting.

VIII. *And be it further enacted, by the authority aforesaid,* That whosoever shall, hereafter, use any fire-hunting, or the killing of any deer by such means on any patented land; every person present at such fire-hunting, shall forfeit and pay twenty shillings for every such offence: And if any Indian be found fire-hunting, as aforesaid, it shall and may be lawful, for the owner of such land, or his or her overseer, to take away the gun of such Indian, and the same to keep to his own use.

No person
to hunt on
another's
land.

IX. *And be it further enacted, by the authority aforesaid,* That if any person shall presume to hunt or range on the patented lands of any other freeholder, without

the leave of the owner of such lands; every such offender shall forfeit and pay the sum of twenty shillings for every such offence: All which penalties herein before mentioned, shall and may be recovered before any justice of the peace in the county where any of the offences aforesaid shall be committed; and shall be divided: one half to and for the use of the parish where the offender shall reside: and the other half to the person or persons who will inform for the same. And every justice of the peace, before whom information shall be made of any the offences aforesaid, shall take for evidence, the confession of the party accused, or the oath of one credible witness. And where the owner of any land shall prosecute for any unlawful hunting and ranging on his lands, the oath of such owner shall be sufficient evidence to convict the offender; but in that case, the whole penalty shall go to the parish.

X. *And be it further enacted, by the authority aforesaid,* That every county court within this dominion, shall, yearly, in the month of January, or the next succeeding court, administer to every constable within their respective counties, an oath, well and truly to present to the next justice of the peace, all offences against this act: And every justice, to whom such presentment or information shall be made, shall immediately issue his warrant for the bringing before him such offender; and to give judgment, and award execution against the goods and chattels of such offender, for the penalties herein before inflicted, respectively.

Constables
to be sworn
to present.

XI. *And be it further enacted,* That one act, made at a session of assembly, held at the capitol the twenty second day of August, one thousand seven hundred and thirty four, intituled, *An Act, for lessening the penalties for killing Deer at unseasonable times, and for the better recovery thereof;* and all and every other act and acts heretofore made, so far as the same relate to any matter or thing within the purview of this act, be, and are hereby repealed, and made void.

Repealing
clause.

An Act for appointing a Treasurer.

Preamble.

I. WHEREAS by one act of Assembly, made in the eighth year of his majesty's reign, sir John Randolph, knight, since deceased, was appointed treasurer of the revenue arising by two several acts of assembly, *for laying a duty upon Liquors*; the one made in the twelfth year of the reign of the late king George the first, and the other made in the fifth and sixth years of the reign of his present majesty, and by one other act of assembly, made in the said fifth and sixth years of his majesty's reign, *for laying a duty upon Slaves*; And the said sir John Randolph departing this life since the last session of assembly, after his death, his majesty's lieutenant-governor of this colony, in pursuance of the power and authority to him given, by the said first recited act, was pleased to appoint Richard Randolph, esq. to be treasurer, until the end of this session of assembly. And it being expedient that a treasurer of the said duties should be now appointed,

A treasurer appointed.

II. Be it therefore enacted by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That from and after the end of this session of assembly, John Robinson, the younger, esq. shall be, and he is hereby nominated, constituted, and appointed treasurer of the revenue arising from the duty upon liquors and slaves, laid and imposed by the three several acts of assembly above mentioned; to hold the said office so long as he shall continue to be speaker of the house of burgesses, and from the time of his being out of that office, until the end of the next session of assembly: And the said John Robinson is hereby authorized, empowered, and required, to demand, receive, and take, of and from the several collectors of the said duties, all and every the sum and sums of money, arising by force and virtue of the said acts, or any or either of them: And to demand and receive of the executors of the said sir John Randolph, and of the said Richard Randolph, his executors and administrators, respectively, all such sum and sums of money, as the said sir John Randolph, and Richard Randolph, or either of them, have received, on account of the said duties, or otherwise, as trea-

surer or treasurers of Virginia; and which shall be in the hands of the said Richard Randolph, or of the executors of the said sir John Randolph, at the end of this session, and not otherwise appropriated by this present general assembly; allowing the said Richard Randolph for his trouble, in paying the money so appropriated, the sum of one hundred and fifty pounds: Which said money, as well as all other sums by him received, in virtue of his said office of treasurer, he the said John Robinson shall utter and apply, to and for such uses, and upon such warrants, as by the said acts for laying the said duties, or by any other act or acts of the general assembly, is or shall be appointed and directed; and shall be accountable for the same to the general assembly.

III. *And be it further enacted by the authority aforesaid,* That the salary of four pounds in the hundred, and so proportionably for a greater or lesser sum, shall be allowed and paid to the said treasurer hereby appointed, out of all and every the sum and sums of money by him received, and accounted for, to the general assembly, as aforesaid. And that there shall be also allowed to the said treasurer, for auditing and settling the accounts of inspectors of tobacco, during the continuance of the laws in that behalf made, the sum of fifty pounds per annum, for his trouble and service therein.

IV. *Provided always,* That the said John Robinson, before he enters upon the said office of treasurer, shall give such sufficient security, as shall be approved by the governor, or commander in chief, of this colony, in the sum of five thousand pounds, for the answering and paying all the money by him, from time to time, to be received, as aforesaid.

V. And to the end, a treasurer may not be wanting, in case of the death, resignation, or disability of the treasurer hereby appointed, *Be it further enacted,* That in either of these cases, it shall be lawful for the governor or commander in chief, of this colony, with the advice of the council, for the time being, to appoint some other fit and able person to be treasurer of the said duties; to hold the office, with all the powers, authorities, salaries, and profits aforesaid, until the end of the next session of assembly.

CHAP. XVI.

An Act, for appointing several new Ferries; and discontinuing a former Ferry.

I. **BE** it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That public ferries be constantly kept at the places herein after named: And that the rates for passing the said ferries, be as follows:

Rates of ferries.

On Potowmack river, from the plantation of Francis Awbrey, in the county of Prince William, over to Maryland; the price for a man seven pence half penny, and for an horse seven pence half penny.

On Rappahanock river, from the land of James Hackley, in the county of King George, over the river, to the land of colonel Gawin Corbin, in the county of Caroline; the price for a man three pence, and for an horse three pence.

On James river, from the land of colonel Richard Bland, in the county of Prince George, over the river, to the land of Mistress Anderson, in the county of Charles-City; the price for a man seven pence half penny, and for an horse seven pence half penny.

On Appamattox river, from the land of William Pride, called The Store-Landing, in the county of Henrico, over the river, to Anthony's Landing, in the county of Prince-George; the price for a man three pence, and for an horse three pence. And, from the said Store-Landing, over the mouth of Persie's stile creek, to the land of Peter Baugh; the price for a man three pence, and for an horse three pence.

For carriages.

II. And, that the courts of the several counties, wherein such ferries shall be kept, shall have power to appoint proper boats to be kept at the said ferries, for the convenient transportation of coaches, waggons, and other wheel carriages: That when such boats shall be so provided, and kept, it shall and may be lawful for the keepers of such ferries, to demand and take for the ferriage and transportation of such wheel-carriages, the following rates: (to wit.) For every coach, chariot, or waggon, and for the driver thereof, the same as for the ferriage of six horses, according to the rates herein before settled, at such ferries, respectively: And for eve-

ry cart, or four wheel chaise, and the driver of such four wheel chaise, the same as for the ferriage of four horses: And for every two wheel chaise, or chair, the same as for the ferriage of two horses, according to the said rates, and no more.

III. And, that the licenses, for keeping the said ferries, shall be obtained in the same manner, and the keepers thereof have such exemptions and advantages, and be under the like regulations and restrictions, as is and are by law provided, for and in respect of the keepers of public ferries, heretofore settled and appointed. Licenses.

IV. *And be it further enacted*, That for every hog-head of tobacco, brought to any of the ferries herein before mentioned, in order to be transported over, (except to the first-mentioned ferry;) the price of ferriage shall be the same as the ferriage of one horse, according to the rates settled at such ferries, respectively. Tobacco.

V. *And be it further enacted, by the authority afore said.* That from and after the passing of this act, the act of the general assembly of this colony, made in the fourth year of the reign of the late queen Anne, intituled, *An Act for the regulation and settlement of Ferries, and for dispatch of Public Expresses*, for so much thereof only, as appoints a public ferry at the mouth of Upper Chipoaks creek, over to the Row, or Martins Brandon, be and is hereby repealed. Repealing clause.

CHAP. XVII.

An Act, for raising a Public Levy.

I. **BE** it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That eleven pounds of tobacco be paid by every tithable person within this dominion, for the defraying and payment of the public charge of the country; being the public levy, from the fifth day of August, one thousand seven hundred and thirty six, to the first day of November one thousand seven hundred and thirty eight: And that it be paid by the collectors of the several counties, to the several persons and counties respectively, to whom it is proportioned by this general

assembly. And if it shall happen, that there shall be more tithables in any county, than the present levy is laid on; then such county shall have credit for so much, to the use of the county: And if fewer tithables in any county; then such county shall bear the loss.

II. *Provided always*; That where any allowance is made in the book of proportions to any county, to be paid in the same county; no more per poll shall be collected from the tithables of such county, than will discharge the ballance, after such allowance shall be deducted: And that every county court shall regulate the levy accordingly.

III. *And be it further enacted, by the authority aforesaid*, That the sheriff of every county shall, at the court of his county to be held in the month of January, or February next, give bond and security for the due collection and payment of the public levy, now laid and assessed.

CHAP. XVIII.

An Act, for better securing the title of certain Lands to the Feoffees of the Town of York; and for settling the same, for a Common, for the use of the Inhabitants of the said Town.

I. **WHEREAS** an act of assembly was made in the third year of the reign of their late majesties king William and queen Mary, intituled, *An Act for Ports*; whereby among other things, it was enacted, That the justices of each county should, within three months after publication of the said act, command the surveior of their county, to lay out and survey fifty acres of land, at the places in the said act named, appointed, and set down, for ports, wharfs, keys, and places for receiving on shore and shipping all goods, wares and merchandize; and that the said justices should agree with the owners of the said lands, for the purchase of the same; and that the said owners should convey to feoffees, to be appointed for that purpose by the said justices, a good estate in fee, in the said lands, in trust, and to the intent, that they the said feoffees should convey to any person requesting the same, one or more half acre, or half acres, upon such condition of build-

ing, as in the said act is mentioned: In which said act, the port for the county of York, was appointed to be upon Benjamin Read's land, beginning at the lower side of Smith's creek, and so running downwards, by the said river, to the ferry. And whereas, the justices of the said county of York, in pursuance of the said act, did direct Lawrence Smith, then surveyor of the said county, to survey and lay out fifty acres of land, at the place before-mentioned; and the said Lawrence Smith accordingly made a survey of fifty acres of land at the said place, leaving out several small parcels or points of land next the river, unfit for habitation, and, at that time, of little value; which are mentioned in the plan of the said survey, returned by the said Lawrence Smith, to the clerk's office of the said county, and there recorded, to be laid off for a common shoar: After which survey, the said justices agreed with the aforesaid Benjamin Read, for the purchase of the said land; and he, by deed of feoffment, bearing date the eighteenth day of August, in the year of our lord one thousand six hundred and ninety one, in consideration of ten thousand pounds of tobacco, conveyed to Joseph Ring, and Thomas Ballard feoffees, appointed by the said justices for that purpose, the premises aforesaid, by the name of all that fifty acres of land, be the same more or less, surveyed by colonel Lawrence Smith, and bounded, as in the said deed is described; together with all and singular the ways, waters, easements, passages, profits, commons, commodities, and appurtenances, to the same belonging, as by the said plan and deed more fully appears. And whereas, after making the said deed, that is to say, in the fifth year of the reign of their said late majesties, an act of assembly was made, whereby the said first mentioned act was suspended, 'til their majesties pleasure should be known, and by one act of assembly, made in the fourth year of the reign of the late queen Anne, intituled, *An Act, for confirming Titles to Town Lands*, reciting, that the said first mentioned act stood suspended; and that pursuant to the said act, divers tracts of land had been purchased, and laid out, for ports and towns, and vested in trustees, many of which had convey'd lots, or half acres, to several persons, who had built thereon, and made considerable improvements; it was and is enacted, That where any county or counties have purchased, laid out,

and paid for, any lands, for ports or towns, pursuant to the said acts for ports, or to any other act of assembly, and have vested the same in trustees, according to the said act or act, such feoffees or trustees, so invested, are declared to have a good, absolute, and indefeasible estate in fee, in such lands, respectively; in trust, to and for the uses in the said act, for ports, mentioned, as in the said act more fully is contained. And whereas the feoffees of the said land, so conveyed, by the said Benjamin Read, have, from time to time, granted and conveyed all the lots, or half acres, within the bounds of the survey before mentioned, to sundry persons, who have built houses and made improvements upon the same, and the said place has for a long time been settled and inhabited, as a town, and has obtained the name of *The Town of York*, and from the time of the first settlement there, the inhabitants of the said town, have always used and enjoyed the aforesaid small parcels or points of land, herein before mentioned, to be left out of the survey of the said fifty acres, as and for a common, without any disturbance, or molestation, from the said Benjamin Read, who lived above forty years after the making the deed herein before recited and mentioned: But since his death, Gwyn Read, of the county of Gloucester, gentleman, eldest son and heir of the said Benjamin, pretends and sets up a title to the same, alledging, that his father was only tenant in tail, of the premises, and could sell and convey no more than fifty acres. And whereas it is plain, from the words of the said act for ports, as well as from the general policy and design thereof, that the fifty acres of land, thereby directed to be surveyed and laid out for a port and town for the said county of York, ought to have been laid off next and adjoining to the river; and it will be a manifest prejudice to the inhabitants of the said town of York, and to the trade and navigation of the same, and will discourage people from settling and inhabiting there, if the said small parcels or points of land, next the river, are not preserved, continued and kept, for the use of the said town, and as a part thereof, in the manner the same have always hitherto been. And whereas it may be questioned, whether the said Gwyn Read has any good right or title to the said parcels or points of land, forasmuch as it was the intention of the said Benjamin Read to pass and convey the same, by the deed herein before mentioned; neverthe-

less, for preventing controversies and disputes, the inhabitants of the said town are willing to pay the said Gwyn Read a reasonable consideration for the same: Therefore, for removing all doubts and controversies hereafter, concerning the premises,

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That* all the land lying between the said fifty acres of land before mentioned, to be surveyed by the said Lawrence Smith, and the low water mark of York river, opposite to the said fifty acres, be, and is hereby vested in Lawrence Smith, and Thomas Nelson, gentlemen, the present feoffees of the said town of York, in fee simple, in as full and ample manner, to all intents and purposes, as if the said land had been actually included in the survey of the said fifty acres: And that the same shall be, and is hereby declared to be and remain, as and for a common, for the use of the inhabitants of the said town, from henceforth, for ever.

III. *Provided always, That* the said feoffees do, and shall, on or before the first day of March next, pay, or cause to be paid to the said Gwyn Read, his executors, or administrators, the sum of one hundred pounds; which is hereby declared to be in full satisfaction for all right or title, which he the said Gwyn Read may have, or pretend to claim, in or to the said premises.

IV. *And be it further enacted by the authority aforesaid, That* the justices of the county of York, shall be, and are hereby empowered, some time before the said first day of March, to levy the said sum of one hundred pounds, together with the charges of obtaining this act, upon the inhabitants of the said town, and owners of lots there; and to rate and assess the same upon the said inhabitants and owners, in such proportion as they shall think proper, having regard to the value of the lots, without the improvements: And in case any person shall refuse to pay such assessment, to cause the same to be levied upon the estate of the person so refusing; and where any such inhabitant is tenant to another person, the landlord shall allow such assessment out of the next year's rent.

V. Saving to the king's most excellent majesty, his heirs and successors, and to all and every person and persons, bodies politic and corporate, their respective

heirs and successors, except the said Gwyn Read, and all others claiming under him, or under the last will and testament of George Read, esquire, deceased, grandfather of the said Gwyn Read, all such right, title, interest, claim, and demand, as they, every, or any of them, should or might claim, if this act had never been made.

CHAP. XIX.

An Act, for the relief of those persons who were sufferers in the loss of the Records of the County of Nansemond, whose cases have not been already provided for.

I. **WHEREAS**, it was enacted, by one clause of the act, made at the last session of the general assembly, *For the relief of certain persons who were sufferers in the loss of the Records of the County of Nansemond*, that to the end, other persons, who had not then been able to produce witnesses before the commissioners appointed by a commission issued under the great seal of the colony, pursuant to the act of assembly made in the eighth year of his majesty's reign, intituled, *An Act, for the relief of such persons as have suffered; or may suffer, by the loss of the records of Nansemond County, lately consumed by fire*, in relation to their deeds and other evidences, which may have been lost among the records of the said county, one other or more commissions should and might be issued and continued by the governor and commander in chief of this colony, for the time being, for examining other witnesses, and perpetuating the testimony thereof, in relation to all deeds, wills, inventories, or other writings, recorded in the said county court, where the original has been lost, pursuant to the last mentioned act of assembly, to be executed and returned, as in the said act is directed. And whereas, pursuant thereto, a commission hath issued, under the great seal of the colony, bearing date at Williamsburg, the twenty seventh day of October, in the tenth year of his said majesty's reign, to William Wright, and eleven others, directed, who have made a return of their proceedings in the premises, whereby it doth appear, that they have

examined divers witnesses to sundry deeds, and other matters, and that the several deeds, and other matters, mentioned in a schedule to this act annexed, have been well and sufficiently proved: Therefore for making the same more effectual,

II. Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same, That from henceforth, the proofs of the several possessions, purchases, deeds, and wills, in the said schedule mentioned, shall and may be given, in evidence, in any court of law, or equity; and shall avail for the benefit and advantage of all persons claiming under them, as much as the same can or ought to avail. And to the end, that those persons who have not yet been able to produce witnesses before the said commissioners, in relation to their deeds and other evidences, which have been lost among the records of the said county, may be relieved.

III. Be it further enacted, by the authority aforesaid, That one other or more commissions shall and may be issued and continued by the governor, and commander in chief, of this colony, for the time being, for examining other witnesses, and perpetuating the testimony thereof, in relation to all deeds, wills, inventories, or other writings, recorded in the said county court, where the original has been lost, pursuant to the act of assembly made in the eighth year of his majesty's reign; to be executed and returned, as in the said act is directed.

A schedule, containing the proofs of several deeds, and other matters, made before certain commissioners, by virtue of a commission, under the seal of the colony of Virginia, bearing date the twenty seventh day of October, in the tenth year of his majesty's reign, pursuant to an act of assembly in that case made and provided.

William Cadawgon, by deed proved and recorded, in Anno 1675. Nansemond county court, sold and conveyed unto John Brothers, the elder, a parcel of land, on the south side of the western branch of Nansemond river, containing one hundred acres, or thereabouts; and the said John Brothers, by his last will and testament, which was likewise proved and recorded in the said county court, some time in the year 1692, gave the said land to his son John Brothers, and his heirs, for ever: And the said John Brothers, the son, dying without will, leaving three children, who all died under the age of twenty

one years; the said land descended and came to Richard Brothers, grandson, and heir at law, to the said John Brothers, the elder, who entered, and is now in peaceable possession thereof.

1711. John Cotten sued out a patent for a parcel of land, on the south side of Cedar Swamp, in the county of Nansemond; and by assignment on the back of the said patent, which was recorded in the court of the said county of Nansemond, made over the said land to David Lewis, deceased; and David Lewis, son and heir to the said David, is now in possession thereof.

1718. Robert Hooks, by deed of gift, acknowledged and recorded, in the court of the county of Nansemond, gave unto his brother John Hooks, during his natural life, and after his decease, unto his son John Hooks, the present possessor thereof, a parcel of land, which he had formerly purchased of one Thomas Altman, lying on the Cyprus swamp, near the mouth of Summerton creek, then in the county of Nansemond, but now in the province of North Carolina.

1726. William Robinson, by indenture of bargain and sale, conveyed to John Thomas, who is now in possession thereof, one hundred acres of land, more or less, being the moiety of two hundred acres of land granted to Jonathan Robinson, by patent, some time in the year of our lord 1703; which land then lay in the upper parish of the county of Nansemond, but now in the province of North Carolina.

1728. Sarah Meredith, widow and executrix of John Meredith, late of Elizabeth City county, deceased, by deed, acknowledged and recorded in the court of the county of Nansemond, conveyed unto Joseph Meredith, one hundred and ten acres of land, being part of four hundred and forty acres of land, formerly granted, by patent, to Sampson Meredith, lying on the Back swamp, at Summerton, in the said county of Nansemond: and, some time in the year 1732, the said Joseph Meredith, by his deed, acknowledged and recorded in the said court, sold and conveyed the said land, to Henry Copeland, who is now in possession thereof.

1730. William Bridger, by deeds of lease and release, proved and recorded in the court of the county of Nansemond, conveyed unto Thomas Davis, a piece of land, containing three hundred acres, more or less, lying in

the upper parish of Nansemond county, on the south side of the poplar swamp.

Isaac Carnal, and Catharine his wife, by deed of bargain and sale, proved and recorded in the court of the county of Nansemond, sold and conveyed unto Abraham Carnal, jun. two hundred acres of land, more or less, lying on Jaringan bridge run, in the upper parish of Nansemond county, which land formerly belonged to Abraham Edwards, father of the said Catharine, and by him given to his said daughter; and the said Abraham Carnal is now, and hath from the time of the said conveyance, been in peaceable possession thereof.

John Moore, by deed of bargain and sale, recorded in the court of the county of Nansemond, conveyed to his brother, William Moore, who is now in possession thereof, a plantation and parcel of land thereto belonging, containing one hundred and ten acres, or thereabouts, lying in the fork of the southern branch of Nansemond river, in the upper parish of the said county, being the plantation that formerly belonged to John Moore, father of the said John and William; and by his last will and testament given and devised to his said son John.

CHAP. XX.

An Act, for dividing the Parishes of Southwark, and Lawn's-Creek; and other purposes therein mentioned.

I. **WHEREAS**, by reason of the large extent of the two adjacent parishes of Southwark, and Lawn's Creek, in the county of Surry, the ministers and inhabitants thereof labour under great difficulties and inconveniences: For the removal of which, for the future,

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That from and after the first day of January, in the year of our lord one thousand seven hundred and thirty eight, the said parishes of Southwark, and Lawn's-creek, shall be divided by the river Black water: And those parts of the said parishes, situate on the north side of the*

said river, united and erected into one distinct parish, to be called the parish of Southwark: And those parts thereof on the south side of the said river, united and erected into one other distinct parish, to be called the parish of Albemarle.

III. *And be it further enacted, by the authority aforesaid,* That all and every the persons, who are now vestrymen of the said parishes of Southwark, and Lawn's-creek, as the same stand undivided, and shall continue so to be 'til the said division shall take place, shall be vestrymen of the said new parishes of Southwark, and Albemarle, wherein they shall dwell, respectively. And that for compleating the number of vestrymen, in the said parish of Albemarle, the freeholders and housekeepers thereof, shall meet, at some convenient time and place, to be appointed, and publickly advertised, by the sheriff of the said county of Surry, before the first day of February next following; and then and there elect such and so many of the most able and discreet persons of their parish, as will make up the number of vestrymen in the said parish, twelve, and no more: Which vestrymen, so continued and elected in the said parish of Albemarle, and the vestrymen continued in the said new parish of Southwark, although exceeding the number of twelve, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall to all intents and purposes, be deemed and taken to be the vestries of the said parishes, respectively.

IV. *Provided always,* That no new election shall be made, in the room of any of the said last mentioned vestrymen, that shall die, or remove out of the said parish, 'til they shall fall under the number of twelve; and thenceforth, that number, and no more, shall be kept up. And forasmuch, as there will be two tracts of glebe land in the said new parish of Southwark; one lying on lower Chipoak's creek, and the other near the head of Gray's creek, joining to the land of Gilbert Gray; and one other tract of glebe land, in the said parish of Albemarle, lying on the north side of Nottoway river: Neither of which will be convenient for the residence of a minister,

V. *Be it further enacted, by the authority aforesaid,* That the said three tracts of land, with the appurtenances, be, and are hereby vested in the vestry of the said

parish of Albemarle, when the same shall be completed, and qualified, as aforesaid, and in the vestry of that parish, for the time being, in trust, that they shall sell, and by deeds of bargain and sale, convey, for the best price that can be got for the same, the said three tracts of land, with the appurtenances, by such descriptions as they shall think fit, to any person or persons, who shall be willing to purchase the same: to hold to such purchaser or purchasers, in fee simple: And when the same shall be so sold, and conveyed, in trust for purchasing with two thirds of the money arising by such sale, a convenient tract of land for a glebe, for the use of the parson of the said parish, for the time being; and the other third part of the said money, for building thereon, according to the directions of the act of assembly in such case made and provided. And they are further impowered, and made capable, to take, receive, and hold, any lands, tenements, or hereditaments, to be purchased, or given, for a glebe, for the use of the parson of the said parish of Albemarle, for the time being, for ever.

VI. *And be it further enacted, by the authority aforesaid,* That the vestry of the said new parish of Southwark, shall, in their next parish levy, raise and pay unto the vestry of the said parish of Albemarle, fifteen thousand pounds of tobacco, free from deductions; to be applied towards lessening the levy in their parish, by the poll; and to be in full of all demands, which the said parish of Albemarle might have against the said new parish of Southwark.

VII. *Provided always,* That nothing herein contained, shall be construed to hinder the sheriff, or collectors of the said parishes of Southwark and Lawn's-creek, as the same now stand divided, to make distress for any levies, or other dues, which shall be due from the inhabitants of the said new parishes of Southwark, and Albemarle, after the said first day of January, in the same manner, as by law, they might have done, if this act had never been made. Anything herein contained; or any law, usage, or custom, to the contrary thereof, in any-wise, notwithstanding.

VIII. And whereas, two small tracts of land, lying and being in the parish of Saint Paul, in the county of Hanover; the one containing one hundred, and the other ninety five acres, are appropriated for a glebe for

that parish; but being inconveniently situated, the vestry with the assent of the parson, are desirous to sell the same, to enable them to purchase a more convenient glebe.

IX. *Be it therefore enacted, by the authority aforesaid,* That the said two tracts of land, with the appurtenances, be, and are hereby vested in the present vestry of the said parish, and the vestry of the said parish, for the time being; in trust, that they shall sell, and by deeds of bargain and sale, convey for the best price that can be got for the same, the said two tracts of land, with the appurtenances, by such descriptions they shall think fit, to any person or persons, who shall be willing to purchase the same; to hold to such purchaser or purchasers, in fee simple: And when the same shall be so sold and conveyed, in trust, for purchasing, with the money arising by such sale, a convenient tract of land, for a glebe, for the use of the parson of the said parish, for the time being; and for building thereon, according to the directions of the act of assembly, in such case made and provided. And they are further impowered, and made capable, to take, receive, and hold, any lands, tenements, or hereditaments, to be purchased, or given, for a glebe, for the use of the parson of the said parish of Saint Paul, for the time being, for ever.

CHAP. XXI.

An Act, for erecting two new Counties, and Parishes; and granting certain encouragements to the Inhabitants thereof.

I. **W**HEREAS great numbers of people have settled themselves of late, upon the rivers of Sherando, Cohongoruton, and Opeckon, and the branches thereof, on the north-west side of the Blue ridge of mountains, whereby the strength of this colony, and it's security upon the frontiers, and his majesty's revenue of quit-rents, are like to be much increased and augmented: For giving encouragement to such as shall think fit to settle there,

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That

all that territory and tract of land, at present deemed to be part of the county of Orange, lying on the north west side of the top of the said mountains, extending from thence northerly, westerly, and southerly, beyond the said mountains, to the utmost limits of Virginia, be separated from the rest of the said county, and erected into two distinct counties and parishes; to be divided by a line to be run from the head spring of Hedgman river, to the head spring of the river Potowmack: And that all that part of the said territory, lying to the north-east of the said line, beyond the top of the said Blue ridge, shall be one distinct county, and parish; to be called by the name of the county of Frederick, and parish of Frederick: And that the rest of the said territory, lying on the other side of the said line, beyond the top of the said Blue ridge, shall be one other distinct county, and parish; to be called by the name of the county of Augusta, and parish of Augusta.

III. *Provided always*, That the said new counties and parishes shall remain part of the county of Orange, and parish of Saint Mark, until it shall be made appear to the governor and council, for the time being, that there is a sufficient number of inhabitants for appointing justices of the peace, and other officers, and erecting courts therein, for the due administration of justice; so as the inhabitants of the said new counties and parishes be henceforth exempted from the payment of all public, county, and parish levies, in the county of Orange, and parish of Saint Mark; yet, that such exemption be not construed to extend to any of the said levies laid and assessed, at or before the passing of this act.

IV. *And be it further enacted*, That after a court shall be constituted in the said new counties respectively, the court for the said county of Frederick be held monthly, upon the second Friday; and the court for the said county of Augusta, be held upon the second Monday, in every month: And that the said counties and parishes respectively shall have and enjoy all rights, privileges, and advantages whatsoever, belonging to the other counties and parishes of this colony. And for the better encouragement of aliens; and the more easy naturalization of such who shall come to inhabit there,

V. *Be it further enacted*, That it shall and may be lawful, for the governor, or commander in chief, of

this colony, for the time being, to grant letters of naturalization to any such alien, upon a certificate from the clerk of any county court, of his or their having taken the oaths appointed by act of parliament to be taken instead of the oaths of allegiance and supremacy; and taken and subscribed the oath of abjuration, and subscribed the test, in like manner as he may do, upon taking and subscribing the same before himself.

VI. And for the more easy payment of all levies, secretary's, clerks, sherifs, and other officers fees, by the inhabitants of the said new counties, *Be it further enacted*, That the said levies and fees shall and may be paid in money, for tobacco, at three farthings per pound, without any deduction. And that the said counties be and are hereby exempted from public levies, for ten years.

VII. *Provided nevertheless*, That from and after the passing of this act, no allowance whatsoever shall be made to any person, for killing wolves, within the limits of the said new counties. Any law, custom, or usage, to the contrary hereof, notwithstanding.

VIII. And, for the better ordering of all parochial affairs in the said new parishes, *Be it enacted, by the authority aforesaid*, That the freholders and housekeepers of the same, respectively, shall meet, at such time and place, as the governor, or commander in chief, of this dominion, for the time being, with the advice of the council, shall appoint, by precept under his hand, and the seal of the colony; to be directed to the sherifs of the said new counties, respectively, and by the said sherifs publickly advertised; and then and there elect twelve of the most able and discreet persons of their said parishes, respectively: Which persons so elected, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be the vestries of the said new parishes, respectively.

CHAP. XXII.

An Act, to prevent the Inhabitants of the Borough of Norfolk, from being compelled to serve in the Militia of the County of Norfolk; and to exempt Sailors or Seamen, in actual pay on board any Ship or Vessel, from serving in the Militia.

I. WHEREAS, the chief magistrates, and other inhabitants, of the borough of Norfolk, are now listed, and compelled to serve, under the command of the officers of the militia, in the county of Norfolk, without the said borough: And forasmuch, as the same may be very inconvenient, and may render the said borough defenceless in time of danger,

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgessess, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That no inhabitant of the said borough shall hereafter be compellable to make his or their appearance at any muster of the militia, out of the said borough, or the limits thereof: But all and every such inhabitant and inhabitants, shall be listed and trained within the said borough, or the limits thereof, according to the laws of this colony, under the command of such person or persons as shall be appointed for that purpose, by the governor, or commander in chief, of this colony, for the time being: And such persons so listed and trained, shall be liable to the same fines, penalties, and punishments, for not attending at musters; or for not doing their duty at such musters, as soldiers listed in the militia of the county, are, or shall be subject to.

III. *Provided always,* That such person shall not be compelled to go out of the said borough, on any military service, without the express order of the governor, or commander in chief, of the said colony and dominion, for the time being; or in case of any invasion or insurrection, without the express order of the lieutenant of the county of Norfolk.

IV. *And be it enacted, by the authority aforesaid,* That the maior, recorder, and aldermen, of the said borough; or the major part of them, in their court of hustings, to be held yearly, in October, upon the complaint of any officer or officers appointed to command the militia, within the said borough, upon sufficient

proof, shall and may give judgment against any person or persons listed under the command of such officer or officers, for the fines which such person or persons shall be liable to, by means of his or their not appearing, or not doing his or their duty at any muster, or upon any other service, within the said borough: Which fines shall and may be levied and appropriated by the said court, in the same manner, as the fines, by the judgment or sentence of any court martial, are, shall, or may be levied and appropriated.

V. And whereas, divers of the inhabitants of this colony, are employed as sailors or seamen, on board ships and other vessels, and the compelling them to serve in the militia, during the time they are employed in such service, would be a very great inconveniency and prejudice to trade.

VI. *Be it therefore further enacted, by the authority aforesaid, That no person, who shall be employed as a sailor or seaman, on board any ship or vessel, within this colony, shall, during the time he is in actual pay, on board such ship or vessel, be compelled to serve in the militia, in any county, city, or borough, where such person is an inhabitant. Any thing contained in this, or any former, or other act, to the contrary, in any wise, notwithstanding.*

CHAP. XXIII.

An Act, for allowing Fairs to be kept in the Town of Fredericksburg.

I. **W**HEREAS, allowing fairs to be kept in the town of Fredericksburg, in the county of Spotsylvania, will be very commodious to the inhabitants of those parts of Virginia, and greatly increase the trade of that town:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same. That for the future, two fairs shall and may be annually kept and held, in the said town of Fredericksburg, on the first Tuesday in June, and the first Tuesday in October, in every year; each to continue for the space of two days, for the sale and vending of all man-*

ner of cattle, victuals, provisions, goods, wares and merchandizes, whatsoever: On which fair days, and on two days next before, and two days next after each of the said fairs, all persons coming to, being at, or going from the same, together with their cattle, goods, wares and merchandizes, shall be exempt and privileged, from all arrests, attachments, and executions, whatsoever: Except, for capital offences, breaches of the peace, or for any controversies, suits and quarrels, that may arise and happen, during the said time; in which cases, process may be immediately issued, and proceedings thereupon had, in the same manner, as if this act had never been made; any thing herein before contained, or any law, custom, or usage, to the contrary thereof, in any wise notwithstanding. And that this act shall continue and be in force, for two years, and from thence to the end of the next session of assembly, and no longer. *Provided always*, That nothing herein contained, shall be construed, deemed, or taken, to derogate from, alter, or infringe the roial power and prerogative of his majesty, his heirs or successors, of granting to any person, or body corporate or politick, the privilege of holding fairs or markets, in such manner as he or they, by his or their roial letters patents, or by his or their instructions to the governor, or commander in chief, of this dominion, for the time being, shall think fit.

CHAP. XXIV.

An Act, for vesting three hundred acres of Land, with the appurtenances, in the County and Parish of Accomack, parcel of a greater Tract, whereof John Wallop is seised, in fee tail, in Joshua Kendall, in fee simple; and for settling several Slaves to the uses of the remaining entailed Lands.

WHEREAS, John Wallop, alias Wadlow, was seised, in fee, of one thousand nine hundred and eighty five acres of land, or thereabouts, with the appurtenances, lying and being in the county and parish of Accomack; and being so thereof seised, did make his last will and testament, in writing, bearing date the fourth day of April, in the year of our lord, one thou-

sand six hundred and ninety three; and thereby, amongst other things devised the same, by such descriptions as therein are expressed, to his son, Skinner Wallop, alias Wadlow, for and during his natural life, the remainder to the heirs of his body, lawfully begotten; the remainder to his daughter, Sarah Wallop, alias Wadlow, as aforesaid: And some time after the making the said will, the said John Wallop died, and the said Skinner Wallop entered into the said land, and was thereof seised, for the term of his life; after whose death, John Wallop, son and heir of the said Skinner Wallop, entered into the said land, and was thereof seised in fee tail, by force of the remainder expressed in the said will: And being so seised, did, by indenture, bearing date the fifth day of June, in the year of our lord, one thousand seven hundred and thirty two, pursuant to an agreement made between him, and one John Kendall, of the county aforesaid, for the consideration of ninety pounds current money, convey to the said John Kendall, three hundred acres of land, parcel of the said one thousand nine hundred and eighty five acres; to have and to hold to the said John Kendall, his heirs and assigns, for ever, to his and their own proper use and behoof: Which said John Kendall, some short time before his death, did make his last will and testament in writing, bearing date the twelfth day of March last; and thereby reciting, that he had lately purchased the plantation and land he then lived on, of the said John Wallop; who had publicly advertised his intentions to apply to the next general assembly, to dock the entail thereof; and that the same might be vested in the said John Kendall, in fee, did direct, that in case he should die before the same should be effected, the said three hundred acres of land should be settled and secured to his son Joshua Kendall, his heirs and assigns, for ever. And whereas, it will be greatly to the advantage, not only of the said John Wallop, the grandson, but of all other persons claiming under the last will and testament of the said John Wallop, the grandfather, that the said three hundred acres of land, with the appurtenances, should be vested in the said Joshua Kendall, in fee simple, according to his said father's will, upon the said John Wallop's settling certain slaves, of greater value, to the same uses as the remaining entailed lands are settled by the last will and testament of

the said John Wallop's, the grandfather. And, forasmuch as notice has been given, in the several parish churches, wherein the said entailed lands lie, that application would be made to this present general assembly, to dock the entail of the said three hundred acres of land, *May it please your most excellent Majesty*, at the humble suit of the said *John Wallop*, and *Joshua Kendall*, that it may be enacted, and be it enacted, by the *Lieutenant-Governor, Council, and Burgesses*, of this present *General Assembly*, and by the authority of the same, That the said three hundred acres of land, with the appurtenances, so as aforesaid conveyed, or intended to be conveyed, to the said *John Kendall*, be and are hereby vested in the said *Joshua Kendall*, his heirs and assigns, to the only use and behoof of him the said *Joshua Kendall*, his heirs and assigns, for ever. And that the following negro men slaves; (to wit,) *Jack, Guy, and George*, and *Nan*, a mulatto woman, and her increase, so long as any of them shall be living, shall pass in descent, remainder, and reversion, to such person and persons, and for such estate or estates, as the said remaining entailed lands shall or may pass and descend, by force of the last will and testament of the said *John Wallop*, the grandfather. Saving, to the king's most excellent majesty, his heirs and successors, and to all and every other person and persons, bodies politic and corporate, their respective heirs and successors, other than the persons claiming under the last will and testament of the said *John Wallop*, the grandfather, all such right, title, estate, interest, claim, and demand, as they, every, or any them, should or might claim, if this act had never been made. *Provided always*, That the execution of this act shall be suspended, 'til his majesty's approbation thereof, shall be obtained.

CHAP. XXV.

An Act, to enable Ralph Wormeley, Esquire, to sell and dispose of certain entailed Lands, to raise Money for the payment of his Sister's portions, and performance of his Father's Will.

WHEREAS *John Wormeley*, late of the county of *Middlesex*, esquire, deceased, father of the said *Ralph Wormely*, was seised, in his life time, of a very

valuable estate in lands, in the counties of Middlesex, Gloucester, King William, and York; and of a parcel of land, in the county of Caroline, containing, by estimation, one thousand acres, or thereabouts; and also of the reversion, expectant upon the death of one Elizabeth Lomax, of and in two thousand acres of land, in the county of King George: And being possessed of divers slaves, and some personal estate; and apprehending he had an estate in fee-simple, in the said lands, did make his last will and testament, in writing, bearing date the fifteenth day of April, in the year of our lord, one thousand seven hundred and twenty five; and thereby among other things did devise to his wife Elizabeth, one half of his real estate, during her widowhood; and gave to his daughter Elizabeth, eight hundred pounds sterling; and to each of his daughters, Judith, Sarah, and Agatha, five hundred pounds sterling; to be paid at their respective ages of twenty one years: And directed, that his said daughters should be maintained out of the estate given by the said will to his son Ralph, 'til they should arrive to the age of twenty one years, or be married; and ordered and appointed that his son John should be sent to England, and be there educated and maintained, out of the profits of the said estate given to his said son Ralph, 'til he should arrive to the age of twenty one years; and after he arrived to that age the said testator devised to him an annuity of one hundred pounds sterling, for fifteen years; to be paid out of the same estate given to his son Ralph: And devised all his real estate to his said son Ralph, in tail male, with divers remainders over, as in the said will more fully is contained. And whereas the said testator was greatly indebted, at the time of his death, more than his personal estate amounted to; and since his death, during the minority of the said Ralph Wormeley, his son, a large sum of money hath been raised out of the profits of the real estate devised, as aforesaid, which hath been applied towards the payment of the debts, and maintenance of the children of the said testator: But the portions, so as aforesaid devised to the said testator's daughters, still remain unpaid, and unsatisfied; nor can the same be now raised out of the said testator's estate, in any other manner than by the sale of his slaves. And whereas the said John Wormeley had really no more than an estate tail, in the lands so as aforesaid de-

vised by him; and therefore had no power to devise or charge the same, in the manner he has done, in and by his said recited will, the said lands after his death vesting in the said Ralph Wormeley, his son, as next heir in tail; nevertheless, the said Ralph Wormeley is very willing and desirous, that the debts of his said father should be paid, and his will performed. And whereas it is doubted, whether the slaves left by the said testator, if sold, would raise money sufficient to pay the several portions devised by the said testator to his daughters, as aforesaid, and to reimburse the said Ralph Wormeley, the money raised out of the profits of his lands during his minority, and applied towards the payment of his father's debts, as before is mentioned. And whereas the said Ralph Wormeley has only an estate tail, in the lands whereof his said father was seised, as aforesaid, and is intitled to the same under the will of his grandfather Ralph Wormeley, esq. deceased; which will bears date the twenty second day of February, in the year of our lord one thousand seven hundred: And the said Ralph Wormeley having no lands, whereof he is seised in fee-simple, or which he can sell or dispose of; it will be very much for the advantage of the said Ralph Wormeley, and his posterity, to preserve the slaves left by his said father, for the improvement and cultivation of his lands; and the selling of the said slaves will not only greatly distress the said Ralph Wormeley, and render his lands of little use or benefit to him; but the provision herein before mentioned to be made by the said testator, John Wormeley, for his younger son, will be thereby also defeated. And whereas the lands herein before mentioned to be lying and being in the counties of Caroline and King George, lie remote from the other lands of the said Ralph Wormeley: And the said Elizabeth Lomax, who has an estate for life, in the said lands in the county of King George, is still living; so that the said premises are now of little value to the said Ralph Wormeley. And whereas notice has been published three Sundays successively, in the several parish churches where the said lands lie, that application would be made by the said Ralph Wormeley, to this general assembly, for leave to sell and dispose of the said lands, pursuant to your majesty's instructions: Therefore, for encouraging the good and laudable design of the said Ralph Wormeley

to pay the debts and fulfil the will of his father the said testator, John Wormeley, and the better to enable him so to do; and to the end, the slaves left by the said testator, may be preserved for the use of the said Ralph Wormeley, for the cultivation of his lands, *May it please your most excellent Majesty, at the humble suit of the said Ralph Wormeley, that it may be enacted, and be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That it shall and may be lawful, to, and for the said Ralph Wormeley, and in case of his death, his executors or administrators, and he and they are hereby severally impowered to sell to any person or persons who shall be willing to purchase the same, the said piece or parcel of land, lying and being in the county of Caroline; the same containing by estimation, one thousand acres, or thereabouts; and is situate upon Rappahanock river, between and adjoining to the lands of Elizabeth Lomax widow, called Portobago, and the lands of one William Taliaferro: And also the reversion of the lands lying and being in the said county of King George, containing by estimation two thousand acres, be the same more or less: Which said last mentioned lands are part of five thousand two hundred and seventy five acres of land, granted to one Thomas Chetwood, and John Prosser, by letters patent under the seal of the colony, bearing date the twenty eighth day of September, one thousand six hundred and sixty seven. And be it further enacted, That the said Ralph Wormeley, and in case of his death, his executors or administrators, shall and may, and he and they are hereby further impowered to make and execute all deeds and conveyances necessary in the law, for assuring unto such purchaser or purchasers, a good estate in fee simple, in the lands so to be purchased. And such purchaser or purchasers, by virtue of such deeds and conveyances, shall, for ever after, peaceably and quietly hold and enjoy the land so purchased, to them and their heirs, for ever: And the money paid by such purchaser or purchasers, shall be applied, in the first place, for and towards the payment and discharge of the debts of the said testator John Wormeley, if any are now remaining unpaid; and afterwards, for and towards the payment and discharge of the several legacies and portions, given and devised by the said testator to*

his four daughters; and the annuity given and devised to his son John, as herein before is mentioned. Saving to the king's most excellent majesty, his heirs and successors, and unto all and every other person and persons, bodies politic or corporate, their heirs and successors (other than the persons claiming under the last wills and testaments of the said Ralph Wormeley and John Wormeley, deceased, or either of them) all such right, title, estate, interest, claim, and demand whatsoever, of, in, and to all or any of the lands before mentioned and described, as they or any of them had, should, or might have had, if this act had never been made. *Provided always,* That the execution of this act shall be suspended, until his majesty's approbation thereof shall be obtained.

AT A

General Assembly,

SUMMONED TO BE HELD AT

The Capitol, in the City of Williamsburg, on Friday, the first day of August, in the ninth year of the reign of our sovereign lord George the second, by the grace of God, of Great-Britain, France, and Ireland, King, Defender of the Faith, &c. And from thence continued, by several prorogations, to the 22nd day of May, in the 13th year of his said Majesty's reign, and in the year of our Lord, 1740: Being the third Session of this present General Assembly.

CHAP. I.

An Act, for the better security of the Country in the present time of Danger.

Preamble.

I. **W**HEREAS, during the present war, it will be necessary, that the militia of this colony should be kept under stricter discipline, more frequently trained and exercised, and better armed; the better to enable them to contend with regular troops:

Arms, provided for militia.

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the treasurer of this colony shall be, and he is hereby empowered and directed, out of the public money in his hands, to issue and apply the sum of two thousand pounds, in providing arms for the militia of this colony, as soon as conveniently may be: which arms shall be delivered to the governor, or commander in chief, of this colony, to be by him distributed, in such manner and proportion, as he, with the advice*

and consent of the council, shall think most convenient.

III. *And be it further enacted, by the authority aforesaid,* That all and every person and persons, who, by the act made in the twelfth year of his present majesty's reign, *For the better regulation of the Militia*, are directed to be listed, shall be obliged to give their personal attendance at all musters; any thing in the said act to the contrary thereof, notwithstanding.

Soldiers to give their personal attendance.

IV. *And that every captain, once in every two months, or oftner, if required, shall muster, train, and exercise his troop or company: And the county lieutenant colonel, or chief commanding officer, in every county, shall cause a general muster and exercise of all the troops and companies within his county to be made, in the months of March and September, in every year, or oftner, if there shall be occasion: And the officers and soldiers respectively offending against the directions of this act, shall, for every offence, incur the like penalties, as are inflicted by the said other act: To be recovered in the same manner, and to the same uses, as therein is expressed; so that no person be fined above eight times in any year.*

Company musters.

General musters.

Fines.

V. *Provided alwais, and it is hereby enacted,* That it shall and may be lawful, to and for the several courts martial, to be held in pursuance of the said act, *For the better regulation of the Militia*, to excuse and acquit any soldier, who thall not, within twelve months from the passing of this act, be furnished and provided with arms, according to the directions of the said first mentioned act; and whom they, in their consciences, shall believe and adjudge to be unable to furnish and provide the same, from the fines and forfeitures inflicted by the said act for want thereof; any thing in the said act, or in this act, to the contrary, or seeming to the contrary thereof, in any wise, notwithstanding.

Power of courts martial to remit.

VI. *And be it further enacted, by the authority aforesaid,* That this act shall continue, and be in force, for three years, from the making thereof, and no longer.

Limitation of this act.

VII. *Provided nevertheless,* That if the present war shall be ended before the expiration of the said three years, that from and immediately after public notice thereof shall be given in this colony, by proclamation of peace, this act, as to so much thereof, as relates to the disciplining and exercising the militia, shall be, and the same is hereby repealed and made void.

CHAP. II.

An Act, for laying an additional Duty upon Slaves, to be paid by the Buyer, for encouraging persons to enlist in his Majesty's service: And for preventing desertion.

Preamble.

May it please your most excellent Majesty,

I. **W**E your majesty's most dutiful and loial subjects, the representatives of your people in your most ancient colony and dominion of Virginia, taking into our most serious consideration the exigencies of your government here, and our present danger in this time of war; and that proper encouragement ought to be given to your subjects in this colony, to enlist in your majesty's service, against the Spaniards; and further provision made, for the better defence of this colony, in arming your poor subjects residing therein: And that the duties already laid upon slaves and liquors, will not be sufficient to answer the purposes aforesaid, do humbly represent to your majesty, that no other duty can be laid upon our import or export, without oppressing your subjects, than an additional duty upon slaves imported, to be paid by the buyers: which will be the most easy expedient for raising a fund to answer the present exigencies, and no ways burthensome to the traders in slaves: We therefore most humbly beseech your majesty, that it may be enacted.

Additional
duty on
slaves.

II. *And be it enacted by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this act, there shall be levied and paid to our sovereign lord the king, his heirs and successors, for all slaves imported or brought into this colony and dominion for sale, either by land or water, from any port or place whatsoever, by the buyer or purchaser, after the rate of five per cent. on the amount of each respective purchase, over and above the duty already laid upon slaves imported as aforesaid: Which said additional duty shall be paid, collected, and accounted for, in such manner and form, and according to such rules, and under such penalties and forfeitures, as are mentioned, prescribed, and appointed, for the paying, collecting, and accounting for the duty already raised and imposed upon slaves imported, by the seve-*

ral acts of assembly now in force, and made for that purpose: And that every article, rule, and clause, contained in the said acts, concerning the paying, collecting, and accounting for the said former duty, shall be used, exercised, and put in practice, for paying, collecting, and accounting for the said duty hereby imposed, as if the same articles, rules, and clauses were inserted in the body of this act. And for appropriating the money arising by the duty hereby imposed, to the uses to which it is designed.

III. *Be it further enacted, by the authority aforesaid,* That the treasurer of this colony, for the time being, out of the money arising from the said duty, shall, and he is hereby empowered and required to pay to the honourable William Gooch, esq. lieutenant governor of this colony, the sum of five hundred pounds, so soon as the same shall be raised, for and towards the support and subsistence of the persons enlisted, and to be enlisted, in his majesty's service in this colony, before they embark on the intended expedition against the Spaniards: And that the residue of the said money arising by the said duty, shall be paid and applied for and towards the relief and maintenance of such of the said persons so enlisted, as shall be maimed or disabled in the said intended expedition; and of the widows and children of such others of them as shall happen to be killed: And also, for and towards the buying and providing arms for the poorer sort of inhabitants of this colony, in such proportions, and in such manner, as the general assembly of this dominion shall hereafter direct and appoint. And to the end, the persons enlisted, or to be enlisted, as aforesaid, may be deterred from desertion,

IV. *Be it further enacted, by the authority aforesaid,* That if any person, after he shall be enlisted in his majesty's service, as aforesaid, shall desert, and escape the punishment of the martial law, it shall and may be lawful, to and for any person or persons whatsoever, and they are hereby required to apprehend the person so deserting, and to carry him before the next justice of the peace for the county where he shall be so apprehended; which justice is hereby empowered and required to commit such deserter to the common goal of his county, there to remain until the next court to be held for the said county: And the justices of the said court are hereby also empowered and required to cause

How appropriated.

Deserters how dealt with.

the said deserter to be brought before them, at the said next court; and to order him to be sold by the sheriff, at the court-house door, immediately after the adjourning of the court, to the highest bidder, for ready money, as a servant, for the space of five years: And the said sheriff shall be allowed for his trouble therein, out of the money arising by such sale, the same fee as for selling goods taken and sold by an execution; and shall also, out of the said money, satisfy and pay the prison fees of such deserter, and pay unto the person or persons apprehending him, the sum of twenty shillings, as a reward for so doing: And the residue of the said money shall be accounted for, and paid by the sheriff, to the treasurer aforesaid: to be by him applied to the uses before mentioned. And for preventing all doubts and scruples that may arise, concerning the carrying and transporting the persons so enlisted, as aforesaid, out of this colony, in case any of them should happen to be indebted.

Proviso.

V. *Be it further enacted, by the authority aforesaid,* That no master of a ship, sloop, or other vessel, shall incur any penalty or forfeiture, for carrying and transporting any of the persons so enlisted, as aforesaid, to any place his majesty shall think fit to order, direct, and appoint; any thing in any other act or acts of assembly to the contrary thereof, notwithstanding.

Limitation.

VI. *And be it further enacted,* That this act shall continue and be in force, until the first day of July, in the year of our Lord one thousand seven hundred and forty four, and no longer.

CHAP. III.

An Act, for raising Levies and Recruits, to serve in the present War, against the Spaniards, in America.

Preamble.

I. **W**HEREAS, his majesty hath been pleased to send instruction to the lieutenant-governor of this colony, to raise and levy soldiers, for carrying on the present war, against the Spaniards, in America: And this present general assembly being desirous, upon all occasions, to testify their loyalty and duty; and taking into their consideration, that there are in every county, within this colony, able-bodied persons, fit to

serve his majesty, who follow no lawful calling or employment:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgessess, of this present General Assembly; and it is hereby enacted, by the authority of the same,* That it shall and may be lawful, to and for the justices of the peace of every county within this colony, or any three, or more of them, at any time before the first day of December next, within their several and respective counties, to raise and levy such able-bodied men as do not follow or exercise any lawful calling or employment, or have not some other lawful and sufficient support and maintenance, to serve his majesty, as soldiers, in the present war, against the Spaniards, in America: And to require and command all sherifs, under sherifs and constables, within their respective counties, to be aiding and assisting to them, in putting this present act in execution; and for that purpose, to issue out warrants, under the hands and seals of any three, or more of them, thereby requiring and commanding such sherifs, under sherifs, and constables, as aforesaid, every, or any of them, to make search, or cause search to be made, within their respective counties, for all such persons, as they can find, who are, or shall appear to them, to be within the description of this act; and to bring before the said justices, all such persons: And in case the justices, hereby authorised to put this act in execution, upon examination of the persons bro't before them, in pursuance of this act, shall judge them to be such, as are hereby intended to be entertained in his majesty's service, they shall immediately enlist them as soldiers: And the said justices are hereby authorised and required, by warrant under the hand and seal of three, or more of them, to cause the person so enlisted, to be delivered to the nearest constable, to be conveyed from constable to constable, until they shall be brought to his majesty's lieutenant-governor of this colony, at Williamsburg; and there delivered to him, or such other person or persons as he shall appoint to receive them. And every person so enlisted, and delivered to a constable, by order of the said justices, as aforesaid, shall be deemed a listed soldier, to all intents and purposes, and shall be subject to the discipline of war; and in case of desertion, shall be punished as a deserter. And if any constable, to whom any soldier

Soldiers,
how impr
sed.

How enlist-
ed.

Escapes,
how punish-
able.

shall be so delivered, to be conveyed to the governor, as aforesaid, shall suffer such soldier to escape out of his custody, or shall neglect or refuse to convey him to the next constable, according to the directions of this act; every such constable shall forfeit and pay the sum of five hundred pounds of tobacco, for every soldier he shall so suffer to escape: And every soldier so escaping, shall be punished as a deserter. And for the better securing and safe conveying such soldier, as shall be delivered to any constable, by the justices, as aforesaid, it shall and may be lawful, for any constable to whom any soldier shall be delivered, as aforesaid, to require and command the aid and assistance of any person or persons he shall think necessary, for the securing and safe conveying of such soldier or soldiers. And if any person, whose aid and assistance shall be so required, shall neglect or refuse to aid and assist accordingly, he shall forfeit and pay, for every offence, five hundred pounds of tobacco.

III. *Provided always*, That nothing in this act shall extend to the taking or levying any person to serve as a soldier, who hath any vote in the election of a burgess or burgesses, to serve in the general assembly of this colony; or who is or shall be an indented or bought servant.

CHAP. IV.

An Act, for dividing the Parish of Saint Mark, in the County of Orange; and erecting the same into two distinct Parishes.

Certain pa-
rishes divid-
ed.

I. **W**HEREAS, by reason of the large extent of the parish of Saint Mark, in the county of Orange, the minister, and inhabitants thereof, labour under great difficulties and inconveniencies: For the removal of which, for the future,

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the first day of November next, the said parish of Saint Mark shall be divided by a line, to be run from the Wilderness bridge, up the Mountain road. to the head of Russel run; thence down the said run,*

to the river Rappidan; thence up the Rappidan, to the Robinson river; and thence, from the said river, along the ridge, between the Robinson and Rappidan, to the top of the Blue ridge of mountains; and all that part of the said parish, situate on the north side of the said bounds, be erected into one distinct parish, and retain the name of Saint Mark; and all that other part thereof, situate on the south side of the said bounds, be erected into one other distinct parish, and called by the name of Saint Thomas.

III. *And be it further enacted by the authority aforesaid,* That the present vestrymen of the said parish of Saint Mark, and that shall continue so to be, 'til the said division shall take place, shall be vestrymen of the said new parishes of Saint Mark and Saint Thomas, wherein they shall dwell respectively. And for completing the number of vestrymen in the said parishes of Saint Mark and Saint Thomas, the freeholders and house keepers thereof, shall meet, at some convenient time and place, to be appointed, and publickly advertised, by the sheriff of the said county of Orange, before the first day of December next following; and then and there elect such and so many of the most able and discreet persons of their parish, as will make up the number of vestrymen, in each of the said parishes, twelve, and no more: Which vestrymen so continued and elected, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be the vestries of the said parishes, respectively. And the vestries of the said parishes, respectively, are hereby impowered and made capable to take, receive, and hold, any lands, tenements, or hereditaments, to be purchased or given for a glebe or glebes, for the use of the parsons of the said parishes, for the time being. forever.

CHAP. V.

An Act, for prolonging the time for bringing Tobacco to the public Warehouses; and for the sale of Transfer Tobacco.

Preamble.

I. **W**HEREAS, by reason of the uncertain arrival of the ships from Great Britain, it will be necessary, during the present war with Spain, to allow the inhabitants of this colony longer time for bringing their tobacco to the public warehouses, than is allowed, as the law now stands:

Inspectors,
when to at-
tend.

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That every inspector of tobacco shall constantly attend at some or one of the warehouses under his charge, from the tenth day of November, until the last day of August, in every year, during the continuance of this present act, to receive and inspect tobacco, except Sundays, and the holydays observed at Christmas, Easter, and Whitsuntide, or when otherwise hindered by sickness: And no tobacco shall be received from that time, to the tenth day of November following.*

When to ac-
count for
transfer to-
bacco.

III. *And be it further enacted, by the authority aforesaid, That the time appointed by law, for the inspectors of every warehouse or inspection, to account for, and sell the transfer tobacco remaining in their hands, and the tobacco gained or saved, by the allowances for cask, or shrinkage, shall be prolonged to the court held for the county where the warehouse or inspection shall be, in the month of October, yearly: And if there be no court held in that month, such inspectors may make oath to their accounts, before a justice, in the manner already directed.*

Limitation
of act.

IV. *And be it further enacted, by the authority aforesaid, That this act shall continue and be in force, from the making thereof, until the first day of September, in the year of our Lord one thousand seven hundred and forty one, and no longer.*

CHAP. VI.

An Act, for continuing and amending the Act, Intituled, An Act, for making more effectual Provision against Invasions and Insurrections.

I. **W**HEREAS, the act of Assembly, made in the first year of his majesty's reign, intituled, *Preamble. An act for making more effectual provision against invasions and insurrections,* (which having expired, was revived by an act, made in the twelfth year of his said majesty's reign,) will again expire on the twenty first day of December, in the year of our Lord one thousand seven hundred and forty one: And it being expedient, that the said act should be further continued,

II. *Be it therefore enacted, by the Lieut. Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same,* That the said first mentioned act shall continue and be in force, from the aforesaid twenty first day of December, in the year of our Lord one thousand seven hundred and forty one, for and during the term of three years then next following, and no longer. Former act continued.

III. And whereas, by one clause in the said recited act, the governor, or commander in chief for the time being, upon any invasion of an enemy, by sea or land, or upon any insurrection, hath full power and authority to levy, raise, arm and muster, such a number of forces of the militia of this colony, as shall be thought needful for repelling the invasion, or suppressing the insurrection, or other danger; but no penalty is inflicted upon the officers of the militia, for neglecting or refusing to execute such orders as they shall receive; or upon soldiers for refusing or neglecting to appear when summoned to give their attendance, upon occasion of any such invasion or insurrection: And for want thereof, the good intent of the said act may be utterly defeated. Recital.

IV. *Be it therefore enacted, by the authority aforesaid, and it is hereby enacted,* That if any officer of the militia, who upon occasion of any incursion, invasion, insurrection, or rebellion, or other alarm or surprise, shall, at any time, during the continuance of the said recited act, receive any orders or instructions, from Fines on officers.

On soldiers.

Fines appropriated.

the governor, or commander in chief, for the time being, or from any other his superior officer, either for calling together the soldiers, or marching them to any particular place, shall neglect or refuse to execute such orders and instructions, in the best manner he is capable, every such officer so neglecting or refusing, shall forfeit and pay the sums following, respectively: (That is to say,) every lieutenant of a county, the sum of fifty pounds; every colonel, lieutenant-colonel, and major, the sum of thirty pounds; every captain, lieutenant, cornet, and ensign, the sum of twenty pounds; and every soldier who shall be summoned to appear upon any such occasion, and shall fail so to do, or shall fail to bring with him his arms and accoutrements, together with one pound of powder, and four pounds of ball, shall forfeit and pay the sum of ten pounds: One moiety of all which forfeitures, shall go to our sovereign lord the King, his heirs and successors, for and towards the better supplying that county, where the offence shall be committed, with arms; and the other moiety to him or them that will inform, or sue for the same: To be recovered, with costs, by action of debt, bill, plaint, or information, in any court of record within this colony.

CHAP. VII.

An Act, for enforcing the execution of the laws made for the better managing and securing Orphans Estates.

Preamble.

I. **W**HEREAS, the justices of many county courts of this colony have neglected to put in execution the laws made *for the better managing and securing Orphans Estates*, to the great damage of many such orphans: For remedy whereof,

Guardians, when to account.

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That every person heretofore appointed, or hereafter to be appointed, guardian to any orphan, by any county court, shall, at the court held for that county in the month of August, in every year, or if no court shall be*

then held, at the next succeeding court to be held for that county, exhibit a true account of the profits of such orphan's estates, upon oath, according to the directions of the laws now in force: And the justices of every county court shall, yearly, at the same court, examine into all accounts of guardians so to be exhibited to them; and shall direct process to issue, returnable to the next county court against all guardians that shall then fail to appear and render such account, as aforesaid, whether such guardian be resident in the same, or in any other county: And the said justices shall then also enquire into all abuses and mismanagements of guardians; and whether any such guardians, or their securities, are likely to become insolvent; and thereupon make and establish such orders and rules, as they shall think fit, according to the power and authority given them, by the laws for that purpose made and provided. And the justices of every county court, who shall fail or neglect to do their duty herein, shall forfeit and pay the sum of five thousand pounds of tobacco: one half to our sovereign lord the king, his heirs and successors, to and for the use of the county; and the other half to the informer: to be recovered, by action of debt or information, in any court of record in this colony; wherein no essoin, protection, or wager of law, shall be allowed, or more than one imparlance granted.

Duty of justices.

III. *Provided always*, That nothing in this act shall be construed to abridge or restrain the power of the several county courts, to enquire, as often as they shall think proper, into the abuses and mismanagements of guardians; but that it shall and may be lawful for them to exercise such power, in as full and ample manner, as they might have done if this act had never been made; any thing herein contained to the contrary, or seeming to the contrary, in any wise, notwithstanding.

Proviso.

CHAP. VIII.

An Act, to prevent the recovery of Money or other valuable things won on wagers; and for the more effectual restraint of Gaming at Ordinaries.

Preamble.

I. **W**HEREAS, the act, made in the first year of his present majesty's reign, for preventing excessive and deceitful Gaming, hath been construed not to extend to horse-racing and cock-fighting, which have been found to produce as great mischiefs as any of the games in the said act mentioned; great numbers of people following and frequenting the same, and losing considerable sums of money thereat, to the great impoverishment of themselves and their families. And whereas, many quarrels, disputes, and controversies have arisen, and many suits have been brought, and are likely to be brought, upon wagers laid at the said horse-racings and cock-fightings: For prevention thereof,

Gaming debts, not recoverable.

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the first day of November next, all promises, agreements, notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn, or entered into or executed, by any person or persons whatsoever, where the whole, or any part of the consideration of such promise, agreement, conveyances, or securities, shall be for any money or other valuable things whatsoever, won, laid, or betted at horse-races, cock-fights, or any other sports or pastimes, or on any wager whatsoever; or for the reimbursing or repaying any money, knowingly lent or advanced for such uses, to any person or persons whatsoever; or lent or advanced, at the time of such horse-racing or cock-fighting, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever. Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.*

Securities, void.

III. And that where such mortgages, securities, or other conveyances, shall be of lands, tenements, or hereditaments, or shall be such as incumber and affect the same, such mortgages, securities, or other convey-

ances, shall enure, and be to and for the sole use and benefit of, and shall devolve upon, such person or persons, as should or might have or be entitled to such lands, tenements, or hereditaments, in case the said grantor or grantors thereof, or the person or persons incumbering the same, had been naturally dead; and as if such mortgages, securities, and conveyances, had been made to such person or persons, so to be entitled, after the decease of the person or persons so incumbering the same: And that all grants or conveyances to be made, for the preventing such lands, tenements, or hereditaments, from coming to, or devolving upon, such person or persons hereby intended to enjoy the same, as aforesaid, shall be deemed fraudulent and void, and of none effect, to all intents and purposes whatsoever. And for preventing gaming at ordinaries, which, of late, notwithstanding the wholesome provisions in the said act made, hath been very much used, to the ruin of the health and corruption of the morals of the youth of this colony, who, upon such occasions, frequently fall in company with lewd, idle, and dissolute persons, who have no other way of maintaining themselves, but by gaming;

IV. *Be it further enacted by the authority aforesaid,* That if any Ordinary keeper, shall suffer or permit any person or persons whatsoever, to play at any game of cards or dice (except back gammon) in his house, either by night or by day, he, she, or they, shall forfeit and pay the sum of ten pounds: one half to our sovereign lord the king, his heirs and successors, to and for the use of the poor of the parish in which the offence shall be committed; and the other half to the informer: to be recovered, with costs, by action of debt, or information, in any court of record, in this colony: And moreover, upon conviction, as aforesaid, the license of such ordinary-keeper shall be, *ipso facto*, void.

Penalty on
ordinary
keepers.

CHAP. IX.

An Act, for appointing several new Ferries; and for altering the Days of holding Fairs in the town of Fredericksburg.

New ferries
established.

I. BE it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That public ferries be constantly kept at the places herein after named; and that the rates, for passing the said ferries be as follows: On Potowmack river, from the plantation of John Hereford, in Doeg's Neck, in the county of Prince William, over the river, to the lower side of Pamunky, in Prince George county, in Maryland, the price for a man one shilling, and for a horse the same. From Hunting creek warehouse, on the land of Hugh West, in Prince William county, over the river, to Frazier's point, in Maryland, the price for a man one shilling, and for a horse the same. On James river, from the warehouse landing at Warwick, in the county of Henrico, over the river, to the land of Thomas Moseley, the price for a man three pence, and for a horse three pence. From the town of Southampton, across the mouth of James river, to the borough of Norfolk, and to Nansemond town; and from the borough of Norfolk, and Nansemond town, to the town of Southampton, the price for a single man, or single horse, seven shillings and six pence; and if there be more, for a man and horse, or men and horses, five shillings for each man and each horse. And that the courts of the several counties, wherein such ferries shall be kept, shall have power to appoint proper boats to be kept at the said ferries, for the convenient transportation of coaches, waggons, and other wheel carriages: that when such boats shall be so provided and kept, it shall and may be lawful, for the keepers of such ferries, to demand and take, for the ferriage and carriage of such wheel carriages, the following rates, to wit: For every coach, chariot, or waggon, and for the driver thereof, the same as for the ferriage of six horses, according to the rates herein before settled at such ferries, respectively: And for every cart, or four wheel chaise, and the driver of such chaise, the same as for the ferriage of four horses: and for every two wheel

chaise or chair, the same as for the ferriage of two horses, according to the said rates, and no more. And that the licenses for keeping the said ferries shall be obtained in the same manner, and the keepers thereof, have such exemptions and advantages, and be under the like regulations and restrictions, as is and are by law provided for, and in respect of the keepers of public ferries heretofore settled and appointed.

II. *And be it further enacted*, That for every hogshead of tobacco brought to any ferry, in order to be transported over, the price of ferriage shall be the same, as the ferriage of one horse, according to the rates settled at the said ferry.

III. And whereas, no prices are settled for the ferriages for any other beasts, except horses, and keepers of public ferries often exact exorbitant prices, for carrying such beasts over their ferries, *Be it further enacted, by the authority aforesaid*, That at all and every the ferries in this colony, it shall and may be lawful, to and for the keepers thereof, to demand and take, for the carriage of such beasts, the following rates; to wit: For every head of neat cattle, the same as for the ferriage of one horse; for every sheep, goat, or lamb, one fifth part of the ferriage of one horse; and for every hog, one fourth part of the ferriage of one horse; and no more. And if any ferry keeper, or ferryman, shall presume to demand and receive from any person or persons whatsoever, any greater rate than what is allowed by law, for the carriage and ferriage of any thing whatsoever, he or they, for every such offence, shall forfeit and pay to the party grieved, the ferriage demanded and received; and ten shillings: To be recovered, with costs, before any justice of the peace for the county, where such offence shall be committed.

IV. And whereas, the days appointed for holding fairs at the town of Fredericksburg, in the county of Spotsylvania, as they are now settled, are found to be inconvenient, *Be it further enacted, by the authority aforesaid*, That, for the future, the said fairs shall be held and kept, in the manner directed by the act, for allowing fairs to be kept in the town of Fredericksburg, on the Wednesday next after the court days of the said county of Spotsylvania, in the months of June; and

Fairs in Fredericksburg.

October, in every year; any thing in the said last mentioned act, to the contrary thereof, in any wise, notwithstanding.

CHAP. X.

An Act, for establishing a Town in the county of Princess Anne; and confirming the titles to lands purchased therein.

New town
in Princess
Anne estab-
lished.

I. **W**HEREAS, it hath been represented to this Assembly, that colonel Anthony Lawson, Edward Mosely, and William Mosely, jun. all now deceased, did, in the year one thousand six hundred and ninety seven, purchase of one Simon Hancock, fifty one acres of land, lying and being in the parish of Lynnhaven, in the county of Princess Anne, bounded, as in the deed for the same, dated the second day of February, in the year aforesaid, is particularly mentioned, and did lay out the same in lots and streets, for a town, by the name of New Town; and made sale of the said lots to divers persons, who have since settled and built thereon: And that the said fifty one acres of land lie convenient for trade and navigation; but because the same was not laid out, and erected into a town by act of Assembly, many controversies and inconveniencies are likely to arise: For preventing all doubts in that matter,

II. *Be it enacted, by the Lieut. Governör, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said piece or parcel of land, containing fifty one acres, lying in Princess Anne county aforesaid, be and is hereby constituted, appointed, erected, and established a town, in the manner it is already laid out in lots and streets, to be called by and retain the name of New Town: And the estate and estates, rights and titles, duly and truly purchased, by any person or persons whatsoever, in any of the lots aforesaid, be and they are hereby confirmed, made good, available, and binding in law, unto such purchaser or purchasers, respectively. And the said purchasers, their heirs and assigns, respectively, shall for ever hereafter, peaceably and qui-*

etly have, hold, and enjoy, the same premises, according to such purchased estates; any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XI.

An Act, to oblige the Justices of Surry County, to repair and maintain a Bridge over Nottoway River: And for permitting a Bridge to be built, by subscription, over Pamunky River; and to provide for the support thereof.

I. WHEREAS, a bridge over Nottoway river, at **Bridges over**
a place called Hunt's landing, in the county ^{Nottoway}
of Surry, adjoining to the public road in that county, ^{and Pamun-}
was lately built, by subscription; and hath been found ^{ky rivers to}
to be very beneficial and convenient for the people of ^{be built.}
that county: And the said bridge being now much decayed, the justices of the said county, upon application made to them, to cause the same to be repaired, at the expence of the county, have refused so to do,

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the justices of the said county of Surry, do forthwith agree with some undertaker, to repair the bridge at the place aforesaid; and to make it fit for the passage of horses, coaches, waggons, and other wheel-carriages; and that they do always, afterwards, maintain and keep the same in good repair: And the justices of the said county, are hereby authorized and empowered, to levy the charge of repairing and maintaining the said bridge, on the tithable persons in their county.

III. *And be it further enacted, by the authority aforesaid,* That if the said justices shall hereafter neglect or delay to agree with workmen or undertakers, to repair and maintain the said bridge; every justice, so refusing or delaying shall forfeit and pay the sum of five pounds: one moiety to our sovereign lord the king, his heirs and successors, to and for the use of that county; and the other moiety to him, her, or them, that will

inform or sue for the same: to be recovered with costs, by action of debt, or information, in any court of record, within this colony and dominion.

IV. And whereas it hath been represented to this assembly, by divers of the inhabitants of this colony, that it will be very advantageous and convenient to them and others, to have a bridge built and maintained over Pamunky river, from a place called Newcastle, in Hanover county, to the land of Edmund Littlepage, in King William county: And they have prayed leave to build a bridge at the said place, over the said river, by subscription;

V. *Be it further enacted, by the authority aforesaid,* That for the better building, ordering, and keeping in repair, the said bridge, over Pamunky river, at the place aforesaid, it shall be in the power of the justices in the county of Hanover aforesaid, and their successors, who are hereby nominated trustees, for putting so much of this act, as relates to the bridge last mentioned, in execution, or any four, or more of them, (one of whom to be of the quorum) to receive subscriptions, and the money subscribed, from every person and persons, who shall be willing to make such subscriptions; and to apply the same towards building a bridge at the last mentioned place: And to design, direct, and agree with workmen, for building the said bridge, so that the same be not less than twelve feet in breadth, and railed on each side three feet high, with one arch, at least thirty feet wide, sufficiently high for the passage of boats and flats.

VI. And for the support and maintenance of the last mentioned bridge, *Be it further enacted, by the authority aforesaid,* That the justices, or any four, or more of them, as aforesaid, or such person or persons as they shall appoint, shall, and may set up and erect, or cause to be set up and erected, one or more gate or gates, turnpike or turnpikes, on, or across the said bridge, as they shall think fit; and the tolls and duties following, shall be paid and received, before any of the things on which the same are herein after imposed, shall be permitted to pass through the said gates or turnpikes; that is to say: For every man, three pence, and for every horse, mule, or ass, three pence: For every coach, chariot, or waggon, and the driver thereof, the same as for six horses: And for every cart, or four

wheel chaise, and the driver thereof, the same as for four horses: For every two wheel chaise, chair, or other carriage, the same as for two horses: For every pipe, or hogshead to be rolled over the said bridge, the same as for one horse: And for every cask to be rolled over, as aforesaid, two pence: For every drove of oxen, or neat cattle, two shillings per score: And for every drove of hogs, sheep, or goats, twelve pence per score; and so in proportion for a lesser or greater number: Which said respective sum and sums of money shall be demanded and taken in the name of, or as a toll, or duty,. And the money so to be raised, is, and shall hereby be vested, in the said justices; and shall be paid, applied, and disposed of, to and for the uses and purposes, and in such manner as is herein after mentioned.

VII. *And be it further enacted, by the authority aforesaid,* That the said justices shall, from time to time, pay and apply the money arising from the profits of the said gates or turnpikes, so to be erected, for and towards the repair of the said bridge, and gates or turnpikes; and afterwards towards satisfying and paying the subscribers, their executors, administrators, or assigns, the several sum or sums of money by them subscribed and paid towards building the bridge, and gates or turnpikes aforesaid, with lawful interest for the said money, from the time of advancing the same, until it shall be paid: And the remainder of the money arising as aforesaid, (if any) shall be applied to the use of the county, for lessening the levy by the poll.

VII. *And be it further enacted,* That the said justices shall and may nominate and appoint one or more fit person or persons, to receive and collect the tolls and duties aforesaid; and to see that the said bridge, gates, or turnpikes be repaired and amended, and the arches of the said bridge kept clear from rubbish and old trees: and from time to time remove such person or persons, as they shall see occasion, and appoint new ones, in case of death, or such removal: And the person or persons so appointed to receive the toll or duties, as aforesaid, shall account, before the said justices, at their courts held in the months of March, and September, yearly, or oftener, if required, upon oath, for all monies which he or they shall have received and paid, by virtue of this act: And the said justices shall

and may, out of the money arising, as aforesaid, make allowance unto such person or persons by them to be appointed, as aforesaid, for his and their care and trouble in the execution of his or their office, as to them shall seem good; always taking bond, with good and sufficient security, from such person or persons, at the time of their appointment, for the due and faithful execution of his or their office, and rendering such account; which bond, upon any breach of the condition, the said justices shall cause to be put in suit; and shall apply the money recovered thereon, to the uses to which the toll or duty is herein before appropriated: And the judgment obtained on the said bond, may be renewed by *scire facias*, and assigning a new breach, in the manner already prescribed for suits on bonds for performance of covenants.

IX. *Provided always*, That nothing herein contained, shall extend to compel any person or persons to pay any toll or duty, where, by law, they are exempted from paying ferriages.

X. *And be it further enacted, by the authority aforesaid*, That if any suit shall be commenced against any person or persons, for any thing done, in pursuance of any part of this act, relating to the last mentioned bridge, the defendant or defendants, in such suit, may plead the general issue, and give this act and the special matter in evidence.

CHAP. XII.

An Act for raising a Public Levy.

Public taxes. I. **B**E it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That six pounds of tobacco be paid by every tithable person within this dominion, for the defraying and payment of the public charge of the country, being the public levy, from the first day of November, one thousand seven hundred and thirty eight, to the two and twentieth day of May, one thousand seven hundred and forty: And that it be paid by the collectors of the several counties, to the several persons and counties respectively, to whom it is proportioned by this general assembly. And if it shall happen, that there shall

be more tithables in any county than the present levy is laid on, then such county shall have credit for so much, to the use of the county; and if fewer tithables in any county, then such county shall bear the loss.

II. *Provided always*, That where any allowance is made in the book of proportions to any county, to be paid in the same county; no more per poll shall be collected from the tithables of such county, than will discharge the balance, after such allowance shall be deducted: And that every county court shall regulate the levy accordingly.

III. *And be it further enacted, by the authority aforesaid*, That the sheriff of every county shall, at the time of giving bond for the due collection and payment of the next county levy, also give bond and security for the due collection and payment of the public levy, now laid and assessed.

CHAP. XIII.

An Act for Docketing the Entail of certain Lands in the county of Charles City; and vesting the same in Philip Lightfoot, Esquire, in Fee Simple.

I. **W**HEREAS Philip Lightfoot, late of James City county, gentleman, deceased, being seized in fee simple of and in three several tracts or parcels of land in the parish of Westover, then in the county of James City, but now in the county of Charles City, did, by his last will and testament, bearing date the thirteenth day of August, in the year of our Lord, one thousand seven hundred and eight, give and bequeath unto his eldest son Francis Lightfoot, and the heirs of his body lawfully begotten, forever, the said tracts of land, by the name of all that his tract or dividend of land, containing five hundred acres, whereon he then lived, and purchased of Edward Chilton, who purchased the same of John Edloe, deceased. And also part of his land which he escheated from Thomas Wilkins, deceased, whereon his quarter then stood; as also two hundred and ninety acres more, joining on the said quarter land, purchased of Edward Chilton: But in case his said son Francis should die without such heir,

Certain entailed lands vested in Philip Lightfoot.

then he gave all the above mentioned tracts to his son Philip Lightfoot, and the heirs of his body lawfully begotten, forever; as by the said last will, reference being thereunto had, may more at large appear.

II. And whereas, the said Francis Lightfoot, after the death of his father, entered upon the above mentioned lands; and having purchased some adjoining tracts, whereby the said devised lands are become more profitable, and of much greater value: And apprehending he had a fee simple, as well in those devised, as those he purchased, did, by his last will and testament, bearing date the sixth day of January, in the year of our Lord one thousand seven hundred and twenty seven, give unto his daughter Elizabeth the sum of one thousand pounds sterling; and all the remainder of his estate, real and personal, wheresoever lying and being, to his son Francis Lightfoot, and the heirs male of his body lawfully begotten: But in case his said son should die without issue male, or there should be any failure thereafter in the male line, then he gave all his said estate real and personal to his brother the said Philip Lightfoot, and his heirs forever, he or they paying to the daughter of his said son, or in case there should be none such, to his daughter Elizabeth, the sum of two thousand five hundred pounds current money, in full compensation of the same; as by the said last mentioned last will, reference being thereunto also had, may more fully and at large appear.

III. And whereas the said Francis, the son of the said Francis, is dead, without issue, and Beverley Randolph, of Henrico county, gentleman, hath intermarried with the said Elizabeth, to whom the said Philip Lightfoot hath paid the said several sums of one thousand pounds sterling, and two thousand five hundred pounds current money, according to the will of the said Francis Lightfoot: And whereas, notwithstanding such payment, the said Beverley Randolph hath brought two several actions of trespass and ejectment, for the recovery of the said lands, in right of his said wife, as intailed upon her, by the will of the said Philip Lightfoot: And the said Philip Lightfoot hath brought a suit in chancery against the said Beverley, and his wife, for the recovery and repayment of so much of the money by him already paid to the said

Beverley; as the said devised lands are reasonably worth, or shall be valued at.

IV. And whereas, for avoiding the great expence with which the said law suits must necessarily be attended; and for that the said lands devised by the said Philip Lightfoot, if recovered by the said Beverley Randolph, and Elizabeth his wife, will be of small value to them, without the adjoining lands, purchased by the said Francis Lightfoot, and the whole together will be very valuable to the said Philip Lightfoot, they, the said Beverley Randolph, and Elizabeth his wife, and the said Philip Lightfoot, have come to an agreement, that in consideration of a certain sum of money, to be paid by the said Philip Lightfoot, to the said Beverley Randolph, he the said Philip Lightfoot, shall have and enjoy the said devised lands, to him and his heirs. And forasmuch as notice has been given in the parish church wherein the said lands lie, of the intended application to this general assembly, to dock the intail of the said lands, pursuant to your majesty's instructions; therefore, for quieting the suits and controversies aforesaid, between the said parties, and for establishing the agreement aforesaid, between them, and for preserving all the lands whereof the said Francis Lightfoot died seized in his name, according to the plain intent and meaning of his will aforesaid; and for that the said Philip Lightfoot is the next in remainder, under the will of the said Philip Lightfoot, deceased, in case of the death of the said Elizabeth, the wife of the said Beverley Randolph, without issue, may it please your most excellent majesty, at the humble suit of the said Philip Lightfoot, Beverley Randolph, and Elizabeth his wife, that it may be enacted,

V. *And be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That all the said lands, so as aforesaid devised, by the last will and testament of the said Philip Lightfoot, to his said son Francis Lightfoot, with all and singular the appurtenances thereunto belonging, be, and are hereby vested in the said Philip Lightfoot, his heirs and assigns, to the only use and behoof of the said Philip Lightfoot, his heirs and assigns, forever: And he the said Philip Lightfoot shall hold the same, free and

discharged from all the limitations in the last will and testament of his father Philip Lightfoot, deceased.

VI. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person and persons, bodies, politic and corporate, their respective heirs and successors, other than the persons claiming under the last will and testament of the said Philip Lightfoot, deceased, all such right, title, interest, claim, and demand, as they, every, or any of them, should or might claim, if this act had never been made.

VII. *Provided always*, That the execution of this act shall be and is hereby suspended, until his majesty's approbation thereof shall be obtained.

CHAP. XIV.

An Act, for Docking the Entail of certain lands, in the county of King William, and vesting the same in Richard Chapman, gentlemen, in Fee Simple; and for settling other Lands and Slaves, of greater value, to the same uses.

Certain entailed lands vested in Richard Chapman.

I. **W**HEREAS Richard Johnson, late of the county of King and Queen, esquire, deceased, being seised of divers lands, tenements, and hereditaments, made his last will and testament, in writing, bearing date the eighth day of April, one thousand six hundred and ninety eight; and thereby, among other things, devised to one Thomas Johnson, since deceased, a tract or parcel of land, lying and being in the parish of Saint John, in the county of King William, by the name of all his plantations, tract, or dividend of land, lying in Pamunky Neck, on Pamunky river side, which he bought of the Sneeds, and others, containing seven hundred and fifty acres, besides the sunken grounds and meadows; to hold to the said Thomas Johnson, and his heirs, for ever. And by his said will, also devised divers lands and hereditaments to Richard Johnson, and William Johnson, brothers of the said Thomas Johnson; and declared his will to be, that if either of them the said Thomas, Richard, and William Johnson, should die before they came to the age of twenty one years, or without heir of

their bodies, that all the estate real given to him so dying, should be equally divided betwixt the two surviving brothers, with divers other limitations in the said will particularly mentioned, as by the said will, proved and recorded in the county court of King and Queen, relation being thereunto had, may more at large appear.

II. And whereas, after the death of the said Richard Johnson, the testator, the said Thomas Johnson entered into the lands so as aforesaid devised to him, and died, leaving issue Nicholas Johnson, his eldest son and heir, who entered into the said premises; and supposing he had an estate in fee simple in the same, did, by indentures of lease and release, bearing date the twenty first and twenty second days of April now last past, in consideration of the sum of six hundred pounds, sell and convey (among other lands in the said deed mentioned) six hundred acres of land, part of the said devised lands, to one Richard Chapman, of the county of King William, gentleman, as by the said indentures recorded in the county court of King William, relation being thereunto had, may more at large appear:

III. And whereas, the said Richard Chapman is apprehensive that the lands so as aforesaid devised to the said Thomas Johnson, are entailed by the will of the said Richard Johnson; and that the said Nicholas Johnson hath only an estate tail therein:

IV. And whereas, the said Nicholas Johnson is seised, in fee simple, of one tract or parcel of land, with the appurtenances, lying and being in the parish of Saint Martin, in the county of Hanover, containing six hundred acres; four hundred acres, part thereof, being a moiety, or half part of eight hundred acres of land, given and granted to the said Nicholas Johnson, and his brother Richard Johnson, by their grand father Nicholas Meriwether; and the remaining two hundred acres having been lately purchased by the said Nicholas Johnson of one Abraham Venables, and conveyed to him by the said Abraham Venables, by deed of Feoffment, bearing date the sixth day of March last past, recorded in the county court of Hanover aforesaid: And the said Nicholas Johnson is also possessed of fourteen negro slaves, commonly called and named, as follows: Daniel, David, Tom, West,

Hampton, Bristol, Charles, James, Betty, Kenny, Nanny, Sarah, Amy, and her son Charles; which said last mentioned lands and slaves, are of greater value than the said six hundred acres of land, so sold by the said Nicholas Johnson, to the said Richard Chapman: And the said Nicholas Johnson being willing and desirous to make and secure a good and absolute title to the said Richard Chapman, in and to the said six hundred acres of lands so sold, hath agreed with the said Richard Chapman, that the said lands in the county of Hanover, and the slaves before mentioned, shall be settled to the same uses, as the said devised lands are limited and settled, by the last will and testament of the said Richard Johnson. And forasmuch, as notice hath been published three Sundays successively, in the church of the parish of Saint John aforesaid, that application would be made to this general assembly, to vest the said six hundred acres of lands so devised by the said Richard Johnson to the said Thomas Johnson, in the said Richard Chapman, in fee simple, upon settling other lands and slaves to the uses mentioned in the will of the said Richard Johnson, pursuant to your majesty's instructions; may it therefore please your most excellent majesty, at the humble petition of the said Nicholas Johnson, and Richard Chapman, that it may be enacted,

V. And be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said six hundred acres of land, with the appurtenances, in the county of King William, parcel of the said lands, so as aforesaid devised to the said Thomas Johnson, by the last will and testament of the said Richard Johnson, and sold and conveyed by the said Nicholas Johnson, to the said Richard Chapman, as aforesaid, shall be and are hereby confirmed to, and vested in the said Richard Chapman, his heirs and assigns, forever. And the said Richard Chapman, his heirs and assigns, shall hold the same, freed and discharged from all the limitations mentioned in the last will and testament of the said Richard Johnson: And that the said six hundred acres of land in the county of Hanover, and the said fourteen slaves herein before mentioned, shall be and are hereby vested in the said Nicholas Johnson, to such use and uses, and for such

estate and estates, and subject to the like limitations, as the said six hundred acres of land in the county of King William, are and stand limited by the last will and testament of the said Richard Johnson, deceased. And the said Nicholas Johnson, and all others, claiming under him, shall have, and may hold and enjoy the aforesaid lands in the county of Hanover, and the said slaves, with their and every of their future increase, in the manner as he or they could or might have held and enjoyed the said six hundred acres of land in the county of King William, in case the same had not been sold or conveyed, as aforesaid; or as if this act had never been made; and not otherwise.

VI. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person and persons, bodies politic and corporate, their respective heirs and successors, all such right, title, estate, interest, claim, and demand, (other than the persons claiming under the last will and testament of the said Richard Johnson,) as they, every, or any of them, could or might claim, if this act had never been made.

VII. *Provided always*, That the execution of this act, shall be and is hereby suspended, until his majesty's approbation thereof shall be obtained.

CHAP. XV.

An Act, for vesting certain Slaves, late the Estate of William Chamberlayne, deceased, in Trustees, for the uses therein mentioned.

I. **W**HEREAS William Chamberlayne, late of the county of New Kent, merchant, deceased, being seised and possessed of a considerable real and personal estate, did, by his last will and testament, in writing, bearing date the first day of October, in the year of our Lord one thousand seven hundred and thirty five, among other things, will and direct, that all his negroes and other slaves, (except those specifically devised,) should be equally divided into four lots or parts. And that the said division should be made by the Reverend Daniel Taylor, Daniel Parke Custis, Richard Littlepage, and Francis West, or any three of them: And, in case of their death, or refusal, then

Certain
slaves of
Wm. Cham-
berlayne,
vested in
trustees.

by a like number of proper persons thereto to be appointed by the court of New Kent county: And, after such division, that his wife should have the first choice of one of the said lots of slaves: To have and to hold to her, to her own proper use and benefit, during the term of her natural life: And, after her decease, to go and descend to such of his children, as she should think fit to devise and bequeath the same unto. And, by his said will, gave and devised to his three sons, Edward Pie, Richard, and Thomas, divers lands, tenements, and hereditaments; and to his two daughters, Mary and Elizabeth, five hundred pounds sterling a piece; and made his said sons residuary legatees; and appointed his wife Elizabeth, sole executrix of his said will. And, some time afterwards, the said William Chamberlayne, made a codicil to his said will, as by the said will and codicil, proved & recorded in the county court of New Kent, relation being thereunto had, may more at large appear:

II. And whereas, after the death of the said William Chamberlayne, his slaves were divided into four lots, pursuant to the directions of the said will; and the said Elizabeth, the wife of the said William Chamberlayne, made choice of one of the said lots, in which were contained thirty three slaves, called and named, as follows: Old Jack, Lightfoot, Ned Littlepage, Bridget Scotland, George Smith, Hedge, Happy, Durham, Edom, Monkey Joe, Tom Possum, Greenwich, Hagar, Sarah Slade, Nan Scotland, Sarah Thornton, Mars Davice, Charlton, Daudy, Judith Lightfoot, Julius, (Judith's son,) Judith's Sarah, Sarah Ordinary, Joanna, Will Sanders, Cam Gibson, Humphry, Sol. Gibson, Susanna Scotland, Dinah, Sue, (Jenny's girl,) Charles Nanson, Abraham, and old Bridget; as by the said division of the said slaves, recorded in the county court of New Kent, aforesaid, may appear:

III. And whereas, the said Elizabeth, at the death of her said husband, was privily ensient, or with child, and some time after his death, was delivered of a daughter, named Anne Kidley; for which said posthumous daughter, no provision is made by the will of her said father William Chamberlayne:

IV. And whereas, the said Elizabeth, some time after the death of her said husband William Chamberlayne, intermarried with William Gray, of the county

of New Kent; but, before the said marriage, being willing and desirous to make some provision for her said daughter, Anne Kidley, did enter into one bond, or obligation, to one William Acril, gentleman, in the penalty of one thousand pounds, bearing date the tenth day of March, one thousand seven hundred and thirty seven, with condition, among other things, to give her daughter, the said Anne Kidley, all the slaves, and their increase, devised to her by the will of the said William Chamberlayne, after the death of the said Elizabeth; and to endeavour to procure an act of assembly to establish and confirm the said child's right to the said slaves, as by the said bond, and condition, also recorded in the county court of New Kent, relation being thereunto had, may more at large appear:

V. And whereas, the said William Gray, and Elizabeth his wife, have made application to this present general assembly, that an act may pass, for settling the said slaves, according to the condition of the said bond: And forasmuch as it may be questioned, Whether the said Elizabeth, by virtue of the power given to her by her said husband's will, can devise the said slaves to the said posthumous child; and for that no provision is made for such child, by the will of her said father; and all the other children of the said testator are amply provided for; and it is reasonable to suppose the said testator would have made some provision for such posthumous child, if he had known his wife had been en-sient: Therefore, for making such provision,

VI. *Be it enacted, by the Lieutenant-Governor, Council, and Burgessess, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the said thirty three slaves, herein before mentioned to be allotted and chosen by the said Elizabeth, as her part and share of the slaves of her said deceased husband, together with all the increase they have had since the same were so allotted and chosen, and all the increase they shall hereafter have, shall be and they are hereby vested in Richard Littlepage, & Thomas Arnott, both of the county of New Kent, aforesaid, gentlemen, their heirs and assigns: upon this special trust and confidence, that they do and shall permit and suffer the said William Gray, and Elizabeth, his wife, during the life of the said Elizabeth, to have, hold, use, occupy, possess, and enjoy, the said slaves, and their increase,

without any molestation, hindrance, or interruption whatsoever. And from and after the death of the said Elizabeth, the said Richard Littlepage, and Thomas Arnott, shall stand and be possessed of the said slaves, and their increase, in trust to, and for the sole use, benefit and behoof of the said Anne Kidley Chamberlayne, daughter of the said William Chamberlayne, by the said Elizabeth, his wife, and her heirs and assigns, for ever.

VII. *Provided always*, That if the said Anne Kidley Chamberlayne shall die, in the life time of the said Elizabeth, her mother, before she arrives at the age of one and twenty years, or is married; then, and in that case, it shall and may be lawful, to and for the said Elizabeth, to dispose of the said slaves, and their increase, according to the power and authority given to her, by the last will and testament of her said husband, William Chamberlayne, in the same manner, as if this act had never been made.

VIII. *Provided also*, That if the said Anne Kidley Chamberlayne, shall depart this life, after the death of the said Elizabeth, her mother, and before she arrives to the age of one and twenty years, or is married; then, in that case, the said Richard Littlepage, and Thomas Arnott, their heirs and assigns, shall stand and be possessed of the said slaves, and their increase, in trust, and to and for the use of the said Edward Pic, Richard, Thomas, Mary, and Elizabeth Chamberlayne, children of the said William Chamberlayne, and their heirs and assigns, to be equally divided between them.

IX. Saving to the king's most excellent majesty; his heirs and successors, and all and every other person and persons, bodies politic and corporate, their respective heirs and successors, (except the heirs of the said William Chamberlayne, and all and every person and persons claiming under the last will and testament of the said William Chamberlayne,) all such right, title, interest, claim and demand, of, in, or to, the said slaves, and their increase, as they, every, or any of them, could or might claim, if this act had never been made.

AT A

General Assembly,

Wm. Gooch,
esq. Govern-
or.

SUMMONED TO BE HELD AT

The Capitol, in the City of Williamsburg, on Friday, the first day of August, in the ninth year of the reign of our sovereign lord George the second, by the grace of God, of Great-Britain, France, and Ireland, King, Defender of the Faith, &c. And from thence continued, by several prorogations, to the twenty first day of August, in the fourteenth year of his said Majesty's reign, and in the year of our Lord, 1740: Being the fourth Session of this present General Assembly.

CHAP. I.

An Act for giving to his Majesty the sum of five thousand pounds, towards defraying the expence of Victualling and Transporting the Soldiers, raised in this Colony, to serve his Majesty on an intended Expedition against the Spaniards in the West-Indies.

I. **W**HEREAS, his most sacred majesty, for vindicating the honor of his crown, for securing the trade and commerce of his subjects, and for revenging the cruelties, depredations, and insults committed by the subjects of Spain upon those of Great-Britain, hath thought it necessary to enter into a war with Spain: And whereas, in pursuance of his majesty's roial instructions to his lieutenant-governor, a number of soldiers have been inlisted in this colony, to serve his majesty on an intended expedition against the Spaniards in the West-Indies: And whereas, his majesty hath recommended to, and required of his good sub-

Preamble

jects of this colony, to provide for and defray the expence of victualling and transporting the said soldiers, and all other incident charges attending the inlisting of them, (except their pay, cloaths, arms, and ammunition,) 'till their arrival at the general rendezvous in the West-Indies: And this present General Assembly, desirous to give the utmost testimony of their loyalty and affection to his majesty's person and government, have resolved to give such a sum of money, as the circumstances of this colony will allow, towards defraying the said expence and charges: notwithstanding the present low condition of the public treasury, and that money cannot be raised, without borrowing the same, on the credit of the small revenues arising by the duties upon liquors and slaves:

Treasurer to pay to the Governor 5000*l*.

How to be applied.

II. Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the treasurer of this colony shall, and he is hereby impowered and required, out of the public monies now in his hands, or which shall hereafter come to his hands, and by borrowing so much as there shall be occasion for, in manner as hereafter is mentioned, to pay to the honourable William Gooch, Esq. his majesty's lieutenant-governor of this colony, the sum of five thousand pounds; to be by him applied towards providing victuals, transports, and other necessaries, for the soldiers, so as aforesaid raised, or to be raised in this colony, for his majesty's service, as herein before is mentioned.

In what manner to be raised.

III. And be it further enacted by the authority aforesaid, That for raising the said sum of five thousand pounds immediately, as the nature of the service to which it is to be applied requires, the treasurer of this colony be and he is hereby impowered to borrow the said sum of five thousand pounds, or so much thereof, as he shall find necessary and expedient, at an interest not exceeding six per cent. And for encouraging persons to lend money upon this occasion,

Duties upon liquors and slaves, to be security for the repayment of money borrowed.

IV. Be it further enacted by the authority aforesaid, That the revenues or duties arising by the importation of liquors and slaves, shall, and they are hereby declared to stand, be, and remain, as a security, for the repayment of the money, with interest, so to be borrowed by the treasurer, as aforesaid. And the said treasurer

is hereby required to repay the money so to be borrowed, with interest, out of the first public monies that shall come to his hands, either by receipt of the duties aforesaid, or otherwise.

General Assembly,

BEGUN AND HELD AT

Wm. Gooch,
esq. govern-
or.

The Capitol, in the City of Williamsburg, the sixth day of May, in the fifteenth year of the reign of our sovereign lord George II. by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith. &c. and in the year of our Lord, 1742: Being the first session of this Assembly.

CHAP. I.

Preamble

An Act, for reducing the Laws made, for amending the Staple of Tobacco; and for preventing frauds in his Majesty's Customs, into one act of Assembly.

I. **W**HEREAS the act of Assembly, made in the third and fourth years of the reign of his present majesty, intituled, an act, *for amending the staple of tobacco, and for preventing frauds in his majesty's customs;* and the several subsequent acts made, for amending and continuing the same; have been found, by experience, to be very useful and beneficial laws; greatly tending, as well to the improvement of the staple of this colony, and preventing frauds in the customs. as to the encouragement of fair and upright trade and dealing: Which said acts will expire on the ninth day of November next. And whereas, through the various alterations and amendments of the said first recited act, in and by the said subsequent acts, the said laws are rendered somewhat difficult to be understood; whereby the more ignorant sort may be exposed to the pains and penalties therein, for want of sufficient knowledge of the same. And this present General Assembly being fully convinced of the importance of the said

laws to the good and welfare of this colony; and having also a due regard for the ease and security of the people thereof, have thought it expedient, that the said laws, with some amendments, should be re-enacted and reduced into one act:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same,* That for the more effectual preventing the exportation of trash, bad, unsound, and unmerchantable tobacco, all tobacco, which from and after the ninth day of November, in the year of our Lord one thousand seven hundred and forty two, shall be exported out of this colony, (except only such tobacco as hath been or shall be viewed and inspected, according to the directions of the laws now in force,) shall be first brought to some, or one of the public warehouses herein after mentioned; and shall be there viewed and inspected, in manner, as herein after is expressed.

III. *And be it further enacted, by the authority aforesaid,* That no person shall put on board, or receive into any ship, sloop, boat, or other vessel, in order to be exported therein, any tobacco not packed in hogsheads, casks, or cases, upon any pretence whatsoever; nor in any hogshead, cask, or case, to be in that, or any other ship, sloop, or vessel, exported out of this colony, before the same shall have been viewed and inspected, according to the directions of this act, (except as before excepted;) But that all tobacco whatsoever, to be received or taken on board any ship, sloop or other vessel, and to be therein exported, or to be carried or put on board any other ship, sloop, or vessel, for exportation, as aforesaid, shall be received or taken on board at the several warehouses, for the purpose herein after mentioned, or some, or one of them, and at no other place or places whatsoever. And every master, mate or boatswain, which shall arrive in this colony, in order to lade tobacco, during the continuance of this act, shall, before the said ship or vessel be permitted to take on board any tobacco whatsoever, make oath, before the naval officer of the district wherein such ship or vessel shall arrive, (which oath the said naval officer is hereby impowered and required to administer,) that they will not permit any tobacco whatsoever, to be taken on board their respective ships or vessels, except

All tobacco exported after Nov. 9, 1742, shall be inspected.

None to be taken on board for exportation, but from a public warehouse only.

Masters of ships, &c. shall be sworn.

Penalties for taking on

board unin-
spected to-
bacco.

the same be packed in hogsheads, casks, or cases, stamped by some inspector legally thereunto appointed: Which oath they shall subscribe in a book, to be kept by the naval officer, for that purpose. And if any master shall cause any person who is not really, and *bona fide*, mate or boatswain, to come on shore and take such oath, he shall, for the said offence, forfeit and pay twenty pounds. And if any master or commander of any ship or vessel, shall take on board, or suffer to be taken on board the ship or vessel, whereof he is master, any tobacco brought from any other place, than some, or one of the public warehouses herein after mentioned; or any hogshead, cask, or case of tobacco, not stamped by some lawful inspector; or shall suffer to be brought on board any tobacco, except in hogsheads, casks, or cases stamped, as aforesaid, every such master and commander shall forfeit and pay twenty pounds of lawful money, for every hogshead, cask, or case of tobacco, which shall not have been brought from one of the said public warehouses, or which shall not be stamped, as aforesaid: And moreover, every such hogshead, cask, or case of tobacco, shall be forfeited.

IV. And forasmuch, as the permitting tobacco in bulk or parcels to be water born, on pretence of being carried to the warehouses established by this act, may give great opportunity to the clandestine running the same on board the ships lying at or near the said warehouses; whereby the evil of exporting trash tobacco may be still continued:

Or parcels
not packed.

V. *Be it further enacted, by the authority aforesaid,* That if any person taking upon himself to carry any tobacco to or from any of the said warehouses, in his sloop, boat, or other vessel, for hire, shall presume to take on board, or permit or suffer to be taken on board, any tobacco whatsoever, in bulk or parcels; such tobacco shall not only be forfeited, and may be seised by any person or persons whatsoever, but such master or skipper offending herein, shall forfeit and pay twenty shillings for every hundred pounds weight of such tobacco: and so proportionably for a greater or lesser quantity. And the master or commander of any ship or vessel wherein any tobacco, in bulk or parcels, shall be found, shall, over and above the forfeiture thereof, be subject and liable to the same penalty: To be recovered, if it doth not exceed five pounds, before any

two justices of the peace of any county, one of them to be of the *quorum*, near the place where such ship, sloop, boat, or other vessel, shall lie: And if it exceeds five pounds, in any court of record, by action of debt, wherein the plaintiff shall recover costs. And every servant, slave, or other person, employed in navigating any such sloop, boat, or other vessel, who shall connive at, or conceal the taking or receiving on board any tobacco, in bulk or parcel, as aforesaid, shall, by order of such justices, receive, on his bare back, thirty nine lashes, well laid on. And if such sloop, boat, or other vessel, be under the care and management of a servant, who cannot satisfy and pay the said penalty; then such servant, and every other person employed under him, who shall be guilty of conniving at, or concealing the taking on board tobacco, in bulk or parcel, as aforesaid, shall upon complaint thereof made to any justice of the peace, have and receive, by order of the said justice, thirty-nine lashes, well laid on. And if any servant shall be again trusted with the care and management of any sloop, boat, or other vessel, and shall be convicted a second time, of taking or receiving on board the same, any tobacco, in bulk or parcel, contrary to the directions of this act, the owner of such servant, shall forfeit and pay the like sum of twenty shillings, for every hundred pounds weight of such tobacco, so taken or received on board, in bulk or parcel: And shall also forfeit and pay five shillings for every day such servant shall thereafter be employed as skipper or master of any sloop, boat, or other vessel, to him belonging: To be recovered, and applied, as aforesaid.

VI. *Provided always*, That nothing herein before contained, shall be construed to prohibit any person from carrying, or causing to be carried to the said warehouses, in any boat, or other vessel, any tobacco, in bulk or parcels, for the payment of his or her levies, debts, or other duties; nor to prohibit any person to put or take on board any sloop, boat, or other vessel, any hogsheads, casks, or cases of tobacco, to be water born to any warehouse or warehouses appointed by this act, so as the same be not carried out of the naval officer's district, wherein the said tobacco shall be made; nor to prohibit the owner of any tobacco, to transport his crops, or any part thereof, in hogsheads, casks, or cases, from one plantation to another, for the better handling

But tobacco packed, or in parcels, may be transported to a warehouse, or from one plantation to another, within the same district.

and managing thereof; nor any purchaser of tobacco, from bringing the same by water, to be repacked, sorted, stemmed, or prized, before the same be carried to the said warehouses, so as such last mentioned tobacco be packed in hogsheads, casks, or cases: But no tobacco, on any pretence whatsoever, shall be carried or transported by water to be inspected, out of the district limited and appointed for the several naval officers of this colony, wherein the same is or shall be made; or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting, by the owner of such tobacco, and the inspectors who shall pass the same, twenty shillings for every hogshead, to the informer.

Proviso.

VII. *Provided nevertheless*, That it shall and may be lawful for the inhabitants of Fleet's Bay, on the south side of Indian creek, in the county of Lancaster, to carry their tobacco by water, to the public warehouses at Indian creek: And the inhabitants of Warwick's Bay, and the parts adjacent to carry their tobacco by water, to be passed at any warehouse in the upper district of James river.

Fraudulent delivery, or imbezzlement of tobacco, felony.

VIII. *And be it further enacted*, That if the skipper of any sloop, boat, or other vessel, or other person or persons, to whom the care and management thereof shall be entrusted, shall land or put on shore, any hogshead, cask, or case of tobacco, put on board the same, to be carried to any public warehouse, at any other place or places, than the warehouse or warehouses, by this act appointed, for the reception and inspection of tobacco, or at some, or one of them, or the wharfs or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses, without fraud or embezzlement; or shall open any hogshead, cask, or case of tobacco, so as aforesaid water born and landed, and take thereout any tobacco, before the same be viewed by the said inspectors, according to the directions of this act; or after the same has been viewed, shall fraudulently open any hogshead, cask, or case, and take thereout any tobacco; every such offence shall be adjudged felony, and the offender or offenders shall suffer, as in case of felony.

IX. *Provided always*, That nothing herein before Exception contained, shall be construed to prohibit the landing or putting on shore, any hogshead, cask, or case of tobacco out of any sloop, boat, or other vessel, which by distress of weather, shall be forced on ground or become leaky, so as such landing be really, and *bona fide*, for the preservation of the tobacco laden in such vessel: And that the same be, with all convenient speed, carried thereafter to the warehouse, or ship, (as the case shall be) to which it was designed, without embezzlement.

X. *Provided also*, That if by any of the accidents a- Damaged to-foresaid, or negligence of the master or skipper of any bacco shall vessel, any tobacco which hath been viewed and stamped, shall, in its carriage to the ship in which it is intended to be exported, receive so much damage, as that the master of such ship will not receive it on board; every hogshead, cask, or case of tobacco so damnified, shall with all convenient speed be carried to some warehouse appointed by this act, and there lodged, until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same and repacked the good tobacco; and then the same shall be viewed and stamped, by the inspectors attending such warehouse, without fee or reward. be reviewed.

XI. *And be it further enacted, by the authority afore-* Countysaid, That all tobacco, which shall be brought to any courts to no- of the public warehouses herein after mentioned, shall minate and be viewed, examined, and inspected, by two persons to recommend be thereunto appointed, who shall be called inspectors; inspectors which said inspectors shall be appointed in the manner annually, to following: That is to say, the courts of the several the govern- counties within this colony, wherein any of the public warehouses, appointed by this act, are established, shall and may, and they are hereby required, once in every year, and no oftener, at their respective county courts, held in the months of August, or September, or one of them, to nominate and recommend to the governor, or commander in chief, for the time being, for so many offices of inspection, as are or shall be in their respective counties, four fit and able persons, reputed to be skilful in tobacco, for the execution of the office of inspectors: And where two warehouses, under one and the same inspection, happen to lie in different counties; in that case, the courts of each county shall

nominate and recommend two for such inspection:— Which nomination, the said courts shall cause to be entered upon record; and the clerk of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the secretary's office: And out of the said four persons so nominated and recommended for each inspection, the governor or commander in chief, with the advice and consent of the council, shall and may choose and appoint two to execute the office of inspectors at such inspection. And in default of such nomination and recommendation by the county courts, as aforesaid, the governor and commander in chief, with the like advice and consent, shall and may appoint such persons as he shall think fit, to be inspectors at such inspections, for which no nomination or recommendation shall be made, as aforesaid. And also, in case of the death, resignation, or removal of any inspector, the governor, or commander in chief, shall and may appoint any person named in the last recommendation from the county court, for that inspection, where the vacancy shall happen, to succeed him, until the next nomination and appointment of inspectors: But if neither of the persons, named in such last recommendation, will accept the said office; in that case, the governor, or commander in chief, may appoint any other person he shall think fit.

On failure of nomination, &c. governor may appoint inspectors.

Justices being inspectors, or recommended may not vote at a nomination. Continuance in office.

XII. *Provided always*, That no justice of the peace, being an inspector, or recommended to be an inspector, shall have, or be allowed a vote in the nomination and recommendation of persons to be inspectors, as aforesaid. And that where any person, once recommended, as aforesaid, and executing the office of an inspector, in pursuance of such recommendation, shall be again recommended the next succeeding year, the same shall be a sufficient appointment to him, to continue in the said office for another year, without any new commission: And so from year to year, so long as he shall be so recommended, as aforesaid.

inspectors shall give bond.

XIII. *Provided always*, That every person appointed, or to be appointed, an inspector, by virtue of this act, shall, before he enters upon the execution of the said office, enter into bond, with good security, in the penalty of two hundred pounds, payable to his majesty, his heirs and successors, with condition, for the true and faithful performance of his duty, according to the

directions of this act. And shall also take the following oath: That is to say, And be sworn,

You shall swear, that you will diligently and carefully view and examine all tobacco brought to any public warehouse or warehouses, where you are appointed to be inspector, and all other tobacco which you shall be called upon to view and inspect: And that you will not receive any tobacco, that is not, in your judgment, sound, well conditioned, merchantable, and clear of trash; nor receive, pass, or stamp any tobacco, or hogshead, cask, or case of tobacco, prohibited by one act of Assembly, intituled, an act, for reducing the laws made for amending the staple of tobacco; and for preventing frauds in his majesty's customs, into one act of Assembly: And that you will, in all things, well and faithfully discharge your duty in the office of an inspector, according to the best of your skill and judgment, and according to the directions of the said act, without fear, favour, affection, malice, or partiality. So help you God.

Which oath shall and may be taken before the governor, or commander in chief, of this colony, for the time being, or before the general court, or court of the county where such inspector shall reside. And if any person shall presume to execute the office of an inspector, before he has given such bond, and taken such oath, as aforesaid, he shall forfeit, and pay five hundred pounds. Penalty.

XIV. *And be it further enacted, That all inspectors, to be appointed, by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge, from the tenth day of November to the last day of July yearly, (except Sundays, and the holydays observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness:)* Duty of inspectors.

And afterwards, they, or one of them, shall constantly attend at the same (except on Sundays) to deliver out tobacco for exportation, 'til all the tobacco remaining there the said last day of July, shall be so delivered. And every They must attend to July 31.

inspector neglecting to attend, as aforesaid, shall forfeit and pay, to the party grieved, five shillings for every neglect; or shall be liable to the action upon the case of the said party grieved, to recover all such damages which he or she shall have sustained, by occasion of any such neglect, together with his or her full costs, at the election of such party. And all inspectors shall uncase and break every hogshead, cask, and case of Five shillings per day, or damages, recoverable, upon non-attendance.

Directions
for viewing
and stamp-
ing.

And in case
of disagree-
ment, or
sickness.

Inspectors
own notes,
how to be
passed.

Transfer
notes.

tobacco, brought to them to be inspected, as aforesaid. And if they shall agree, that the same is good, sound, well conditioned, merchantable and clear of trash, then such tobacco shall be weighed in scales, with weights of the lawful standard; and the hogshead, cask, or case, shall be stamped and marked with a hot iron, in the presence of the said inspectors, or one of them, with the name of the warehouse, at which the tobacco therein contained, shall be viewed and inspected as aforesaid; and also with the tare of the hogshead, cask, or case, and quantity of nett tobacco therein contained. But if the said two inspectors shall at any time disagree, concerning the quality of any tobacco brought for their inspection to any warehouse under their charge they shall, without delay, or as soon as conveniently may be, call from the next adjacent warehouse or inspection, another inspector, who shall determine the difference, and pass or reject such tobacco. And where any inspector shall happen to be sick, and unable to attend his duty; in that case, it shall be lawful for any other inspector of any adjacent warehouse, to view, inspect, and pass tobacco, in his room. And when any inspector shall bring his own tobacco to the warehouse, whereof he is inspector, the same shall not be passed or stamped, unless it be first viewed, examined, and found good, and qualified as aforesaid, by the other inspector there attending, and by one or both the inspectors, as the case shall require, from the next adjacent warehouse.

XV. *And be it further enacted*, That if any tobacco shall be brought to any of the said warehouses, for the discharge of any public or private debt or contract, the said inspectors or one of them, after they have viewed, examined, and weighed the said tobacco, according to the directions of this act, shall be obliged to deliver to the person bringing the same, as many promissory notes, under the hands of the said inspectors, as shall be required, for the full quantity of tobacco received by them; in which shall be expressed, whether the tobacco so received, be sweet-scented or Oronoko, stemmed or leaf: Which notes shall, and are hereby declared to be current in all tobacco payments whatsoever, according to the species expressed in the note, within the county wherein such inspectors shall officiate, and in any other county next adjacent thereto, and not se-

parated therefrom by any of the great rivers or bay herein after mentioned; that is to say, James river, below the mouth of Appomattox; York, below West-Point; Rappahannock river, below Taliaferro's Mount; or by the great Bay of Chesapeak, and shall be transferable from one to another, in all such paiments, (except as herein is excepted;) and shall be paid and satisfied by the inspector or inspectors who signed the same, upon demand: And for every hogshead of tobacco brought to any public warehouse, for the discharge of any public or private debt, in good cask of such dimensions, as herein after expressed, there shall be allowed by the inspector thereof, to the person bringing the same, after the rate of four pounds of tobacco for every one hundred pounds, the tobacco therein contained, shall weigh, after the same shall be viewed and passed; so as such allowance does not exceed thirty pounds of tobacco for each hogshead. And the said inspectors shall, and they are hereby obliged to make every hogshead, by them paid away, in discharge of any note by them given, as aforesaid, to contain eight hundred and fifty pounds of nett tobacco, at the least: And for every such hogshead of tobacco by them paid away, well lined and nailed, fit for shipping, there shall be paid by the person receiving such hogshead, five shillings for inspecting, and six pence for nails, whether the tobacco therein contained be sweet-scented or Oronoko: Which said sum of six pence the said inspectors shall and may retain in their hands, for their own use, to reimburse them the expence of providing nails: And the person demanding or receiving tobacco, in discharge of notes, as aforesaid, shall allow to the inspectors thirty pounds of tobacco for each hogshead so received, for the cask, and two pounds of tobacco for every hundred pounds of tobacco contained in such notes; and so proportionably, for a greater or lesser quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the note given for the same; and one pound of tobacco for every hundred, for every month the same shall be unpaid, after the said allowance; so as such allowance for shrinkage and wasting, do not exceed in the whole six pounds of tobacco for every hundred. And if any inspector or inspectors, by whom any such notes for tobacco, as aforesaid, shall be signed, shall refuse

4 per cent.
for cask not
exceeding
30lbs. of to-
bacco per
hogshead.

Transfer to-
bacco must
contain 850
lbs. nett to-
bacco, at
least, when
paid by the
inspectors.

5s. 6d. per
hogshead, for
Inspection,
&c.

Shrinkage
or loss of
weight.

Inspectors
failing to pay
their notes.

forfeit double the quantity of tobacco.

or delay to pay and satisfy the same, when demanded, every inspector so refusing or delaying, shall forfeit and pay to the party injured, double the value of the tobacco so refused or delayed to be paid: To be recovered, with costs, in any court of record within this dominion, if the note or notes so refused or delayed to be paid, exceed two hundred pounds of tobacco; and if the said note or notes do not exceed two hundred pounds of tobacco, the double value aforesaid, shall and may be recovered, before any justice of the peace of the county wherein the warehouse shall be, at which the note or notes ought to be paid.

Crop notes.

XVI. *And be it further enacted, by the authority aforesaid,* That all tobacco brought to any of the said warehouses, in hogsheads, casks, or cases, to be exported, on account, and for the use of the owner thereof, after the same shall have been viewed, examined, and weighed, and found to be good, shall be stamped, as herein before directed: And the said inspectors, or one of them, shall deliver to the person bringing the same, as many receipts, signed as aforesaid, as shall be required, for the number of hogsheads so brought and stamped. And for every hogshead, cask, and case, brought to any of the said warehouses, to be exported, on account, and for the use of the owners thereof, there shall be paid to the inspectors there attending, three shillings for viewing, examining, and stamping the same; and the owners of the said tobacco shall find and provide nails for the nailing thereof.

3s. per hogshead for inspection, besides nails.

No tender of tobacco debts, except made in inspector's notes.

XVIII. *And be it further enacted,* That during the continuance of this act, no tender of any debt or duty, payable in tobacco, shall be accounted lawful, unless payment of the same be tendered in inspectors notes or receipts. And for restraining the undue practice of mixing trash with stemmed tobacco, and preventing the packing tobacco in unsizable casks.

Stemmed tobacco. Dimensions of cask.

XIX. *Be it enacted and declared,* That all stemmed tobacco, not laid straight, whether the same be packed loose, or in bundles: And all tobacco packed in hogsheads, which exceed eight and forty inches in the length of the stave, or thirty inches at the head within the crow, making reasonable allowance for prizing; which allowance shall not exceed two inches above the gage in the prizing head, shall be accounted unlawful tobacco, and shall not be passed or received: But the

owner of such tobacco, packed in casks of greater dimensions, than before expressed, shall be obliged to rspacek the same in sizeable cask, at his own cost and charge, before the same shall be stamped by the said inspectors.

XX. *And be it further enacted*, That if any person Forging inspectors whatsoever, shall forge or counterfeit the stamp, note, notes, or or receipt of any inspector, or tender in payment any stamp; or such forged, or counterfeited note or receipt, knowing breaking, or it to be such; or export, or cause to be exported, any altering in- hogshead, cask, case, chest, box, or other package of spected to- tobacco, stamped with a forged or counterfeit stamp; bacco, felo- or demand tobacco of any inspector upon any such for ny. ged or counterfeit note or receipt, knowing such note or receipt, or such stamp to be forged or counterfeited; or shall put or pack into any hogshead, cask, or case of tobacco, stamped by any inspector, any tobacco whatsoever; or shall draw or take out any stave, plank, or heading board of any hogshead, cask, or case of tobacco, after such hogshead, cask, or case of tobacco, shall be delivered out from any of the public warehouses aforesaid; every person so offending, and being thereof convicted, by due course of law, shall be adjudged a felon, and shall suffer, as in case of felony.

XXI. *And be it further enacted, by the authority afore-* Notes lost or *said*, That if any inspectors notes or receipts be casually mis-laid. lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco, by virtue of any such note or receipt, shall make oath before a justice of the peace of the county where the same is payable, to the number or date of every such note or receipt, to whom and where payable, and for what quantity of tobacco the same was given, and that such note or receipt is lost, mislaid, or destroyed: And that he, she, or they, at the time such note or receipt was lost, mislaid, or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice; and upon producing a certificate of such oath, to the inspectors who signed such note or receipt, and lodging the same with them, the said inspectors shall, and are hereby directed, to pay and deliver to the person obtaining such certificate, the tobacco for which any such notes or receipts were given, (if the same, of any part thereof, shall not have been before by them paid, by virtue of the said notes or re-

ceipts;) and shall be thereby discharged from all actions, suits and demands, on account of such notes or receipts. And if any person shall be convicted of making a false oath, or producing a forged certificate, in the case aforesaid, he shall forfeit and pay twenty shillings for every hundred pounds weight of tobacco contained in such certificate; and moreover, upon conviction in any court of record, shall suffer, as in case of wilful and corrupt perjury.

Paiment of public debts. XXII. *And be it further enacted, by the authority aforesaid,* That all tobacco due, or to grow due and payable, for public, county, or parish levies, or for quit-rents, or for secretarys, clerks, sheriffs, surveiors, or other officers fees, shall be paid and discharged, in the following manner; that is to say, all levies and quit-rents, shall be paid in some warehouse in the county where such levies are laid, or lands chargeable with such quit-rents, lie; and all officers fees, in the county where the person chargeable therewith, lives; except such person shall have a plantation seated, with slaves thereon, in the county where the service is performed; and then, all fees, except secretary's fees) shall be paid in such county: But the said levies, quit-rents, and fees, due and payable in any county where no public warehouse is established, shall be paid by inspectors notes, at some warehouse in the next adjacent county.

Currency of inspectors' notes. XXIII. *Provided always,* That no transfer notes of the preceeding year, shall pass in any such paiment; nor no notes of the county of Prince William, shall pass in any paiment of levies, quit-rents, or fees, becoming due in the county of Orange. And the notes of the warehouses, herein after mentioned, shall pass in paiment of all quit-rents, levies, and officers fees, payable in the counties following; that is to say, the notes of Kemp's warehouse, shall pass in the county of Gloucester. Of Lawrence's, Gray's creek, and Cabbin Point, in the county of Isle of Wight. Of Lawrence's, and all the warehouses above, on the south side of James River in the county of Brunswick. Of Wainwright's Appamattox, Maycock's, Jourdan's, and Warwick-squeak Bay, in the county of Surry. Of Warwick, Bermuda Hundred, John Bolling's, and Cabbin Point, in the county of Prince George. Of Turkey Island, and Hog Neck, in the county of Charles City. Of any warehouse in the county of New Kent, in Saint Peter's

parish, in the county of James City. Of York, Roe's, and Hampton, in the county of Warwick. Of Roe's in the county of Elizabeth City. Of Page's, and Meriwether's, in the county of King William. Of Todd's, Aylett's and Layton's, in the county of Caroline. Of Conway's, in the county of Spotsylvania. Of Fredericksburg, in the county of Louisa. Of Indian Creek, in the county of Lancaster. Of Yeocomico, in the county of Northumberland. Of Mattox, and Falmouth, in the county of Stafford. Of Princess Anne, and Norfolk, in either county. Of any warehouse in Accomack, or Northampton, in either county.

XXIV. *And be it further enacted*, That out of every hundred pounds of tobacco paid, in discharge of quit-rents, secretary's, clerks, sheriffs, surveyors, and other officers fees, and so proportionably for a greater or lesser quantity, there shall be made the following abatements or allowances to the payer; that is to say, for tobacco due in the counties of Goochland, Brunswick, Orange, Amelia, and the county of Louisa, the person paying shall and may retain in his own hands, thirty pounds of tobacco, for every hundred so due from him. For tobacco due in the county of Princess Anne, twenty pounds of tobacco. For tobacco due in the counties of Henrico, Caroline, Nansemond, Norfolk, Hanover, and Spotsylvania, fourteen pounds of tobacco. For tobacco due in the counties of Prince George, Surry, Isle of Wight, Fairfax, and Prince William, twenty pounds of tobacco. For tobacco due in any other county, ten pounds of tobacco.

Allowances
for conveni-
ency.

XXV. *Provided always*, That where any person chargeable with any officers fees, (except Secretary's fees,) lives in another county, than where the service is performed, or the fees become due, the same allowance shall be made to every such person, as is by law settled to be allowed, in that county where the service is performed, or the fees become due.

Proviso as to
non-resi-
dents.

XXVI. And for preventing all mistakes and controversies concerning the allowances to be made, upon the payment of public, county, and parish levies, *Be it enacted*, That the levies aforesaid, shall be all laid in nett tobacco, and the abatement which ought to be made out of every creditor's claim for convenience, shall be deducted out of such claim, at the time of

Allowances
on payment
of levies and
taxes.

laying the said levies: Which abatements are hereby settled, and declared to be the same, as are before mentioned and directed to be allowed, upon the payment of quit-rents and officers fees. But where any creditor, by law or contract, ought to be paid with convenience, in that case, no abatement shall be made to the people, by the collectors thereof. And where any tobacco ought to be paid with cask, there shall be levied four per cent. for cask, and no more: And there shall be also levied, in all the said levies, six per cent. for collecting the same, and no more: Which shall be paid and allowed to the respective collectors of the said levies. And for all tobacco paid and discharged in inspectors notes for quit-rents, secretary's, clerks, sherifs, surveiors, and other officers fees, to the persons entitled to receive the same, there shall be paid and allowed by such persons, to the sheriff, or collector, six pounds of tobacco, for every one hundred pounds of tobacco so paid, and so proportionably for a greater or lesser quantity. And the said sheriff, or other collector, is hereby impowered to retain the same in his hands. And the sheriff, and other collectors of the levies, quit-rents, and fees aforesaid, shall pay and discharge the same, by the same notes which they shall receive, in payment thereof.

Commission
for collect-
ing.

Allowances
in taxing
costs.

XXVII. *And be it further enacted*, That during the continuance of this act, the clerk of the general court and of every county court, in taxing the costs of any judgment or decree obtained, or to be obtained, shall deduct, out of the said costs, the same allowance for convenience, as shall or ought to be made and allowed to the party first charged with the fees so taxed in the bill of costs, by the respective officers; and execution shall issue for no more than the said costs amount to, after the said deduction.

Public to-
bacco debts,
when paya-
ble.

XXVIII. *And be it further enacted*, That all public, county, and parish levies, quit-rents, secretary's, sherifs, clerks, surveiors, and other officers fees, paialle in tobacco, shall be paid and satisfied by the persons chargeable with, and indebted for the same, to the sherifs, or other collectors, by inspectors notes, before the tenth day of April, yearly. And if any persons chargeable with the levies, quit-rents, and fees aforesaid, shall neglect or refuse to pay the same, within the time aforesaid, it shall and may be lawful, to and for the

sherifs, or other collectors, immediately after the said Distress for. tenth day of April, to distrain the goods and chattels of the person or persons so neglecting and refusing, and to sell and dispose thereof, for tobacco, in the same manner as is directed by law, for goods taken in execution; and the overplus (if any be) after paying the said levies, quit-rents, and fees, and the charge of distress, which is hereby declared to be the same as for serving an execution, shall be returned to the debtor.

XXIX. *Provided always*, That where any goods Distress for or chattels shall be distrained for non-payment of quit-rents, the same shall not be redeemed, but by the payment of sterling money, or bills of exchange, for so much as the said quit-rents amount to: And if not redeemed, the sheriff shall sell the same for sterling money, or bills of exchange, accordingly. quit-rents how redeemable.

XXX. And the sherifs, or other collectors of the said levies and fees, shall before the last day of April, yearly, pay and deliver to each creditor, according to their respective debts or claims, all the inspectors notes he or they have received, in satisfaction thereof. And if any sheriff, or other collector, shall refuse or delay to make payment accordingly, if required, he or they so refusing or delaying, shall forfeit and pay the party grieved, double the value of the tobacco, so refused or delayed to be paid: To be recovered, with costs in any court of record within this dominion, if the debt due exceeds two hundred pounds of tobacco; and before any justice of the peace, if the debt be two hundred pounds of tobacco, or under. Sheriffs and collectors when to account.

XXXI. *And be it further enacted*, That when any tobacco shall be brought to any of the public warehouses, and refused by the inspectors there officiating, the same shall be immediately burnt by them, unless the owner or person bringing such tobacco, desires to sort and separate the same, and to pick out such as is bad; in which case the inspectors shall permit the same to be done at the warehouse, to which the said tobacco shall be brought, without fee or reward: But shall not, on any pretence, suffer the said tobacco to be removed or carried from the said warehouse. And the said inspectors shall allow one month for separating and picking such tobacco; after which time, if the same be not done, it shall be lawful for them to burn the whole, except where the tobacco is in a sweat, or where Refused tobacco to be burnt or picked.

the circumstances or accidents of weather may have prevented the handling of it; in which case the inspectors shall allow such further time as they shall think reasonable. And where any tobacco shall be separated and picked, as aforesaid, the trash and bad tobacco shall be burnt by the inspectors, on the same day it is picked out, under the penalty of forfeiting five shillings for every failure, to the informer.

Liability of
overseers.

XXXII. And if any tobacco packed in cask by an overseer, or the hands under his care, shall be burnt by the said inspectors, by reason of it's being bad, unsound, or not in a good condition, the overseer who had the care of making and packing the same, shall bear the loss of the tobacco so burnt, and make satisfaction for the same, out of his share of the crop or otherwise. And the inspectors shall be obliged to keep an account of all tobacco so burnt. And to the intent the just quantity of tobacco exported, may be more exactly known, and all evil practices to defraud his majesty of his customs prevented;

Weights of
all tobacco
to be enter-
ed in a book.

XXXIII. *Be it enacted, by the authority aforesaid,* That all inspectors shall carefully enter in a book to be, provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them, as aforesaid, and in what ships or vessels the same shall be laden, or put on board: And shall also, with every sloop-load or boat-load of tobacco, send a list of the marks, numbers, gross, nett weight, and tare of every hogshead of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board. And if the tobacco delivered to the same sloop or boat, is intended to be put on board several ships or vessels; then they shall deliver so many distinct and several lists, as aforesaid, of the hogsheads to be put on board such ship or vessel, respectively: Which lists, every master of a ship or vessel is required to produce to, and lodge with, the naval officer of the district where the ship or vessel, whereof he is master, shall ride, or by whom he shall be cleared, some time before her clearance. But whereas it may happen, that the ship in which such tobacco was intended to be put, may be so full, as not to be able to stow all the tobacco contained in such list; in such case, it shall and may be lawful to ship the said tobacco, or any part thereof, on

Manifests.

Proviso
where the
ship cannot
receive the
tobacco.

board any other ship or ships, where the owner thereof shall think fit, the masters of such ships indorsing on the said lists, the marks and numbers of the respective hogsheads by them taken on board, and giving notice to the inspectors of the warehouse from whence the same was brought: Or if there be no ship to receive the said tobacco, then it shall and may be lawful for the master of the first mentioned ship or vessel to put the said tobacco into the nearest warehouse to the place where such ship shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall give a receipt for the same, and shall cause the said tobacco to be safely lodged, and delivered to the order of the owner thereof, whenever he or she shall think fit to ship it off; and that without fee or reward.

XXXIV. *And be it further enacted*, That every master of a ship or vessel wherein tobacco shall be laden, shall, at the time of clearing, deliver to the naval officer, two fair manifests of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hogshead, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto; and that the same is a just and true account of the marks, numbers, tare and nett weight, of each respective hogshead, as the same was taken down by the person or persons appointed by him to take the same, before the said tobacco was stowed away. And no ship or vessel shall be cleared by the naval officer, before he shall have received such lists and manifests; one of which said manifests shall, by the said naval officer, be annexed to such master's certificate or clearance, to the end the same may be delivered to the chief officer of the customs, in such port or place where the said ship shall unlade, and the other of the said manifests shall, by the said naval officer, be transmitted to the said chief officer of the customs, by the next convenient opportunity.

XXXV. *And be it further enacted, by the authority aforesaid*, That public warehouses for the inspection of tobacco, pursuant to this act, shall be kept at the several places herein after mentioned; that is to say, in the county of Accomack, at Pitt's landing, upon Poko-

Duty of masters of vessels and naval officers, in relation to manifests.

Warehouses established.

moke, and at Guilford's, where the warehouses are now kept, under one inspection. At Pungoteague, in the same county, and Nasswaddox, in Northampton county, where the warehouses are now kept, under another inspection. In the county of Caroline, at Conway's and Roy's. In the county of Charles City, at Swinherd's; and upon the land of Mr. Richard Kennon, where the warehouses are now kept. In the county of Elizabeth City, at Hampton, upon Mr. Miles's lot. In the county of Essex, at Bowler's; and on Piscataway creek, where the warehouses now are, under one inspection. At Hobb's Hole, at Layton's, and on Occupalia Creek, on the land of James Garnet, where Robert Jones formerly dwelt, under one inspection.— In the county of Gloucester, at Gloucester Town; at Eastermost River; at Deacon's Neck; and at Poropotank, where the warehouses are now kept. In the county of Hanover, at Crutchfield's, upon Mr. Page's land; and at Meriwether's. In the county of Henrico, at Warwick, and at Shockoe's, where the warehouses are now kept. And at Bermuda Hundred, and Turkey Island, where the warehouses are now kept, under one inspection. In the county of Isle of Wight, at Wainwright's; and on Smith's land, on the east side of Pagan Creek, under one inspection; and at Warwick-squeak Bay. In the county of King and Queen, at Shepherd's, and Thomas Turner's, under one inspection; at Mantapike, and Walker Town, on the lot of Mr. John Walker, under another inspection; and at Todd's. In the county of King William, at Aylett's, Quarles's, and Williams's. In the county of King George, at Bray's Church, Falmouth; and upon Jonathan Gibson's land, where the warehouses are now kept; and on Mr. George Morton's land. In the county of Lancaster, at Davis's, and Shelton's, under one inspection; at Dimer's, upon Hadway's Creek, in the same county; and Indian Creek in the county of Northumberland, under another inspection; and at Deep Creek. In the county of Middlesex, at Kemp's, and Urbanna, where the warehouses are now kept. In the county of Norfolk, at Norfolk Town, upon the Fort land; at the great Bridge, on Mr. Samuel Boush's; and at Kemp's Landing, in the county of Princess Anne, under one inspection. In the county of Nansemond, at Sleepy Hole, Lawrence's, and Constance's. In the

county of Northampton, at Cherrystone's and Hungar's, under one inspection. In the county of New Kent, upon the land of Richard Littlepage; at the Brick House, upon Col. Basset's land; and at Hog Neck, in the county of James City, upon Col. Bray's land, under one inspection. In the county of Northumberland, at Wiccocomico; and at Coan, where the warehouses are now kept. In the county of Prince George, at Bolling's Point; and John Bolling's, in Henrico, under one inspection, at Maycock's; and at Jordan's, upon Mr. Bland's land; under another inspection. In the county of Fairfax, on both sides of Occoquan, where the warehouses now are, under one inspection; at Hunting Creek; and on the land of the Honourable Thomas Lee, Esquire, at the Falls of Patowmack. In the county of Prince William, at Quantico. In the county of Richmond, on Rappahannock Creek, near the mouth, on Mr. Fantleroy's land; and on Mr. Beckwith's land, near the bridge over the same creek, under one inspection; and on Totaskey Creek, on the land of Mr. Brokenbrough; and on the land of Mr. Hornby, where the warehouses are now kept; and on the land of John Carter, Esquire, under one inspection; and at Glascock's, where the warehouses are now kept. In the county of Surry, at Cabbin Point; and at Gray's Creek, where the warehouses are now kept. In the county of Stafford, on Patowmack Creek, upon Cave's land; and at Boyd's Hole, where the warehouses are now kept; and at Ocquiah. In the county of Spotsylvania, at Fredericksburg, where the warehouses are now kept; and on Royston's lots, in the said town.—In the county of Warwick, at Denbigh, where the warehouses now are. In the county of Westmoreland, on both sides of Nominy, upon Spence's land; and on both sides of Mattox, upon Washington's, and Martin's land; at Yeocomico, where the warehouses now stand; and at Rust's Landing, on the same river, under one inspection. In the county of York, at Roe's; at York town; and at the Capitol landing, and at the College Landing, in James City county, where the warehouses are now kept, under one inspection.

XXXVI. And there shall be paid to the several inspectors appointed to attend, and attending the said several warehouses, the salaries herein after mentioned; that is to say, to each of the inspectors,

Inspectors
salaries,

Pounds per annum

At Pungoteague, and Nasswaddox, under one inspection,	30
At Pitt's, and Guilford's, under one inspection,	25
At Conway's and Roy's,	35
At Swinherd's,	25
At Kennon's,	30
At Hampton, on Miles's lot,	25
At Bowler's, and on Piscattaway Creek, under one inspection,	30
At Hobb's Hole,	30
At Layton's, and on Occupatia Creek, under one inspection,	35
At Gloucester Town,	30
At Eastermost River,	25
At Deacon's Neck,	35
At Poropotank,	30
At Page's,	60
At Meriwether's,	35
At Warwick,	50
At Shockoe's,	45
At Bermuda Hundred, and Turkey Island, under one inspection,	35
At Wainwright's, and on the east side of Pagan Creek, under one inspection,	35
At Warwicksqueak Bay,	30
At Shepherd's, and Thomas Turner's land, under one inspection,	35
At Mantapike, and Walker Town, under one inspection,	35
At Todd's,	40
At Aylett's,	35
At Quarles's,	25
At Williams's,	25
At Bray's Church,	30
At Falmouth,	40
Upon Gibson's land,	35
At Morton's,	25
At Davis's and Shelton's,	30
At Deep Creek,	30
At Kemp's,	35
At Urbanna,	30
At Norfolk Town, upon the Fort land; and at the great Bridge, on Mr. Boush's land; and at Kemp's, under one inspection,	40

Pounds per annum.

At Sleepy Hole,	25
At Lawrence's,	35
At Constance's,	30
At Cherrystone's, and Hungar's, under one inspection,	25
At Littlepage's,	35
At the Brick House; and Hog neck, under one inspection,	35
At Wiccocomico,	35
At Indian Creek, and Dimer's,	30
At Coan,	30
At Bolling's Point; and on John Bolling's land, in Henrico, under one inspection,	35
At Maycock's and Jordan's, under one inspection,	35
At the Falls of Patowmack,	30
On both sides of Occoquan, under one inspection,	30
At Quantico,	35
At Hunting Creek,	30
On Mr. Fantleroy's land, where the warehouses now stand; and upon Beckwith's land, under one inspection,	35
At Glascock's,	25
At Totasky,	35
At Cabbin Point,	40
At Gray's Creek,	30
On Patowmack Creek, at Cave's,	25
At Boyd's Hole,	35
At Nominy,	35
At Ocquiah,	25
At Mattox,	30
At Fredericksburg,	45
At Yeocomico, and Rust's,	35
At Royston's,	45
At Roe's,	25
At Denbigh,	25
At York Town,	30
At the Capitol, and College landings, under one inspection,	35

XXXVII. *And be it further enacted,* That the rents of the several warehouses hereby established, shall be, Rents of warehouses, and they are hereby settled, at the following rates:

Pounds per annum.

At Pungoteague,	8
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	<i>Pounds per annum.</i>
At Nasswaddox,	6
At Pitt's, and Guilford's,	10
At Swinford's,	10
At Hampton,	7
At Easternmost River,	10
At Bermuda Hundred,	8
At Turkey Island,	8
At Norfolk, Princess Anne, and the great Bridge, each	5
At Sleepy Hole,	10
At Cherrystone's, and Hungar's, each,	5
At Hog Neck,	5
At John Bolling's,	5
At Roe's,	10
At the College Landing,	10

And at all the other warehouses, there shall be paid, and allowed for the rents of the same, eight pence for every hogshead of tobacco that shall be received, inspected, and delivered, out, at such warehouses, respectively.

Provision
where rents
are insuffi-
cient.

XXXVIII. *Provided always,* That where wharfs are, or shall be necessary to be built, or kept in repair, at any of the said warehouses; and the rents hereby established, are not sufficient for building, and keeping in repair such wharfs: Or where any new warehouses shall hereafter be built, in pursuance of this act, and the rent hereby established, shall not be proportionable to the expence of such building; in both the said cases, such further allowance shall be made by the General Assembly, as shall be thought reasonable. And the rents aforesaid, together with the inspectors salaries, shall be paid and allowed, by the treasurer, to the several inspectors, upon the passing their accounts. And the inspectors shall pay the rents to the persons entitled to receive the same, out of the money received by them, for inspecting tobacco. And if the money received, by any inspectors of any of the warehouses aforesaid, shall not be sufficient to pay the salaries and rents aforesaid, and other incident charges, in this act mentioned; such deficiency shall be made good out of the general fund, arising by the profits of the other warehouses. And if that shall prove deficient, then the said

Rents & sala-
ries, how
paid.

salaries, rents, and charges, shall be paid and satisfied out of any other public money in the hands of the treasurer, for the time being.

XXXIX. *And be it further enacted,* That where warehouses are already built, at any of the places here- Owners of warehouses compelled to rent them.
in before mentioned, and appointed for keeping the same, and are now made use of, as and for public warehouses, the proprietors and owners of such warehouses shall be, and they are hereby obliged to lett the same to the inspectors. during the continuance of this act, at the rent hereby established for such warehouses respectively: And if any proprietor or owner shall re- Proceedings where the owner of land intends to build.
fuse so to do, he shall forfeit and pay one hundred pounds. And where warehouses are not already built at any of the places aforesaid, or where any new warehouse shall be hereafter appointed to be kept at any other place. it shall and may be lawful for the justices of the court of that county. wherein such place is, or shall be, and they are hereby required, to cause the owner or proprietor of the land, where such warehouses are or shall be appointed to be kept; and in case such owner or proprietor be under age, feme covert. or out of the country, then the guardian, husband, or known attorney (as the case is) of such owner or proprietor, to be summoned to appear before them, at the next succeeding county court, after such summons shall issue, there to declare whether they will undertake to erect and build such houses, wharfs, and other conveniences, as the said court shall think fit to direct, and lett the same to the inspectors appointed to attend at such warehouses, at the rent settled by this act, or which shall hereafter be settled for the same. And in Where he refuses.
case such owner or proprietor will undertake the same, then the said court shall, and they are hereby required to take a bond, with one sufficient security, in a reasonable penalty, payable to his majesty, his heirs and successors, with condition for the due performance of such undertaking. And in case such or proprietor shall refuse to undertake the same, or to give such bond, as aforesaid; then it shall and may be lawful for the said justices, and they are hereby required, to value an acre of the said land, for the use aforesaid; and to agree with any person or persons, for erecting and building thereon, such houses, wharfs, and other conveniences, as shall be necessary; And to take bond,

with good security, from such person or persons, for performing such agreement, and letting such land and houses to the inspectors, at the rent settled, or to be settled, in pursuance of this act. And the person or persons with whom such agreement shall be made, upon paying or tendering to the owner or proprietor of the said land, the money at which the same shall be valued, as aforesaid, and building thereon, according to his or their agreement, shall, from thenceforth, have an estate in fee simple in such land, during the time such place shall be made use of, for a public warehouse. And in case the proprietor of the said land, or any other person, will not build such houses, wharfs, and other conveniences, on the said land, and lett the same to the inspectors, at the rent settled, or to be settled, as aforesaid: in that case, it shall and may be lawful, to and for the said justices, and they are hereby required, to pay or tender to the proprietor of the said land, the value thereof, according to the valuation before mentioned, and to cause to be built thereon, such houses, wharfs, and other conveniences, and to levy the charge thereof, upon the inhabitants of their county: and shall take and receive the yearly rent established or to be established, in pursuance of this act, for reimbursing the county the charge of purchasing the said land, and building thereon: And from thenceforth the justices of the said county, for the time being, shall be seised in fee of the said lands, in trust, and for the use of the said county, during the time the said place shall be made use of, for a public warehouse. And where justices of any county court, or any other person or persons, have already built warehouses upon the lands of another person, by virtue, or in pursuance, of the laws now in force, the said justices, or other person or persons shall, in like manner, be seised in fee of the acre of land, upon which such warehouses are built, so long as the said places respectively, shall be made use of, for public warehouses. But if any of the places, whereon warehouses are, or shall be built, by the justices, or other persons, not proprietors, as aforesaid, shall hereafter happen to be discontinued, the proprietor of the land, returning the price paid for the same, shall be from thenceforth seised of his former estate.

Warehouses discontinued,
How owner restored to his former estate,

XL. *Provided always.* That where any warehouses have been, or shall be built, by the justices, or other

person, as aforesaid, and the first proprietor of the land shall desire to have the same again; such proprietor, upon payment of so much money, as shall be sufficient to reimburse the said justices, or other person, the principal money expended, on the building such warehouses, with lawful interest, shall be restored to his former estate, in the land whereon such warehouses are built; and shall receive the rents afterwards growing due, for such warehouses.

XLII. *Provided also,* That nothing herein contained, shall be construed to give power to the said justices, to take away the houses, orchards, or other immediate conveniences, of any proprietor of land, for the uses or purposes aforesaid; nor to the said inspectors to keep any horses, cattle, or hogs, at any of the said public warehouses, except in inclosures, upon the land appointed for such warehouses. And if any swine, belonging to the said inspectors, or any of them, shall be found at large, upon the land appropriated for such warehouses, or the lands adjoining thereto, it shall and may be lawful, for the proprietor of the land, on which the said warehouses are placed, to kill, or cause to be killed or destroyed, all such swine.

Houses, orchards, &c. not to be taken.

Hogs, how kept.

XLIII. And the justices of the peace of the several counties, in their county courts, shall, and are hereby declared, to have full power, to put in execution, so much of this act, as relates to the erecting and building of public warehouses; and to regulate all matters concerning the same, and to direct the building and repairing of such houses, wharfs, prizes, cranes, and other conveniences, from time to time, as to them shall seem necessary and expedient; And in case the owner or proprietor of any warehouse, shall refuse or neglect to make such buildings, repairs, wharfs, prizes, cranes, and other conveniences, as shall be directed by the said county courts, it shall and may be lawful, for the said courts to direct the same to be done, at the charge of the county: And the justices of such county, shall receive a proportionable part of the rent, for the use of the county. And if any difference shall arise between such owners, and the justices, touching the proportion, the same shall be determined by the governor and council. But if there shall happen to be an immediate occasion to hire houses, before others can be built, as aforesaid; the rent of such houses shall be paid by

Power of justices in relation to warehouses.

Penalty on justices for neglect of duty.

the county, and be again repaid by the public, without any charge upon the landlord. And if upon the application of the inspectors to their county courts for building and making other necessary houses, wharfs, and repairs, such county courts shall refuse or fail to do their duty therein; every justice so failing or refusing, shall forfeit and pay one thousand pounds of tobacco: To be recovered in the general court, with costs, by action of debt, or information, against such justices jointly.

Loss by fire
made good
by General
Assembly.

XLIII. *And be it further enacted.* That if any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby, shall be made good and repaired to the several persons injured, by the General Assembly, at the next session after such loss. And in case of such accident, no inspector shall be sued or molested, for or by reason of any promisory notes or receipts by them given, for any tobacco burnt in the said warehouses; but shall be altogether acquitted and discharged of and from the paiment of the tobacco in such notes or receipts mentioned: any thing herein before contained to the contrary, notwithstanding.

Weights and
scales.

How provi-
ded.

How tried.

XLIV. *And be it further enacted, by the authority aforesaid.* That there shall be kept at every one of the said warehouses herein before appointed, and at all others hereafter to be appointed, a good and sufficient pair of scales, with weights to weigh twelve hundred pounds at the least, and a set of small weights, the same that are or ought to be provided for the standard weights of each county. And where such scales and weights are not already provided, or now are or shall hereafter be worn out, or become unfit for use, the justices of the respective county courts wherein any of the said warehouses are or shall be, are hereby directed and required to provide the same, with all convenient speed: And the treasurer of this colony, is hereby impowered and required to pay the purchase money, out of the public money in his hands. And moreover, the said justices are hereby required and directed, once in every year at the least, to appoint one or more of their number, to view the said scales, and examine and try the weights, at the several warehouses, by the standard weights of the county. And if the said scales and weights shall want repairing, or the weights be found deficient, or differing from the lawful standard,

the said justices shall cause the same to be repaired and amended, and the weights made conformable to the standard. And the charge of repairing and amending the said scales and weights, and also of trying the same with the standard, as aforesaid, shall be paid by the inspectors, respectively; and be again allowed to them, in their account with the treasurer.

XLV. And, for preventing the clandestine transportation of bad and unmerchantable tobacco from this colony, to the provinces of North Carolina and Maryland; and also for the better preventing the exportation of tobacco in bulk or parcels, *Be it further enacted by the authority aforesaid*, That no tobacco whatsoever, of the growth or production of this colony, shall during, the continuance of this act, be transported or carried into either of the said provinces of North Carolina, or Maryland, either by land or water until the same hath been first viewed, examined and stamped, at one or other of the warehouses appointed, or to be appointed, in pursuance of this act; nor until due entry thereof shall be made with the officers of the customs in the district wherein the owner of the said tobacco shall reside; and a permit obtained from them for that purpose. And if any person or persons shall presume to carry or transport, or cause to be carried or transported, any tobacco not inspected and stamped, or without having obtained such permit as aforesaid, to either of the said provinces, of North Carolina, or Maryland, he or they so offending, shall forfeit and pay five pounds for every hogshead, cask, or case of tobacco, and twenty shillings for every hundred pounds of tobacco in bulk or parcel, so transported or carried out, contrary to the directions of this act.

XLVI. *And be it further enacted*, That all sheriffs, under sheriffs, and constables, who shall be in office on the tenth day of November next, shall at the first court to be held for their respective counties, after the said tenth day of November, take an oath, that if they shall at any time know, or be credibly informed, or have good reason to suspect, that any tobacco is pressed or packed in any cask, case, chest, or other package whatsoever; or any tobacco is put on board any boat or vessel, in order to be shipped off, without being inspected: or that any tobacco is carrying or carried out of this colony, into Carolina, or Maryland, without a

Penalty for carrying into North Carolina or Maryland.

Oaths to be taken by sheriffs and constables.

penalty. permit for so doing, they will forthwith make information, and a particular discovery thereof, to the next justice of the peace of the county where such tobacco shall be. And that all sheriffs, and under sheriffs respectively, which shall, after the said tenth of November, be appointed or sworn unto the said offices, shall at the time of their being sworn, take the same oath, and obtain a certificate thereof: And every such officer failing so to do, shall forfeit five pounds current money, to the informer; to be recovered with costs, by action of debt or information, in any court of record, within this dominion. And every inspector and constable, shall take the same oath, at the first court held for the county where he resides, or at the same court if sworn at the county court, after he shall be sworn into his office; under the like penalty. And if any justice of the peace shall know, or be informed as aforesaid, by any of the said officers, or by any other person, upon oath, of any such tobacco, so pressed or packed, in order to be shipped off, or carried out of this colony, without being inspected, as aforesaid, such justice or by his warrant, any sheriff, under sheriff, or constable, within the limits of his county, shall have power and authority, and is hereby required, to enter any suspected houses, and to break open all doors, either by day or by night, to search for the same; and finding any tobacco pressed in any cask, chest, or case, that shall not contain two hundred pounds weight of nett tobacco, or any other package, made up in linen, cords, or spungyarn, of any weight whatsoever, such justice, sheriff, under sheriff, or constable, respectively, shall seize and destroy the same: And the person in whose possession such tobacco shall be found, shall forfeit to the informer ten shillings for every hundred pounds weight; and so in proportion for a less quantity: To be recovered, with costs, in any court of record, if it be twenty five shillings current money, or more; or if under that sum, before any justice of the peace of the county where the fact shall be committed: And such justice shall and may issue an execution, either against the body or goods of the offender accordingly; any law, statute, or custom, to the contrary, notwithstanding.

Duty of justices.

XLVII. And any justice of the peace of any county, near the place where any ship, sloop, boat, or other

vessel, shall ride, upon application to him made, by any person suspecting any tobacco in bulk, or parcels, to be on board such ship, sloop, boat, or other vessel, shall, and is hereby impowered and required, to issue his warrant, directed to the sheriff, or any constable of his county: And the sheriff and constable shall have full power and authority, and is hereby required, to enter and go on board such ship, sloop, boat, or other vessel, to search for, and seize such tobacco; and the same being seised, shall be brought on shore, and carried before the same, or any other justice, who shall cause the same to be immediately weighed, and burnt by such sheriff, or constable. And if any master, or commanding officer of any ship, or vessel, or the skipper of any sloop, boat, or other vessel, or any other person whatsoever, shall resist the officer, in the execution of any such warrant; every such master, or commanding officer, shall forfeit and pay fifty pounds: And every such skipper, sailor, or other person, so resisting shall forfeit and pay ten pounds. And if any action shall be brought against any justice of the peace, sheriff, under sheriff, or constable, for doing any thing in execution of this act, the defendant may plead the general issue, and give this act in evidence: And if the plaintiff shall be nonsuit, or a judgment pass against him, upon a verdict, or demurrer, the defendant shall recover double costs.

XLVIII. *And be it further enacted, by the authority* Inspectors
aforsaid, That no person taking upon him the office ineligible to
of an inspector, shall during his continuance in that the General
office, or within two years after he shall be out of his Assembly.
said office, be capable of being elected a member of the
House of Burgesses, or shall presume to intermeddle,
or concern himself, with any election of a Burgess or
Burgesses, otherwise than by giving his vote; or shall
endeavor to influence any person or persons to give his
or their vote, under the penalty of fifty pounds, for e-
very offence. Neither shall any inspector, during the Penalty for
time aforesaid, be, or undertake to be, collector of his interfering
majesty's quit-rrnts, or of any public, county, or parish in elections,
levies, or of any officers fees; nor shall directly or in- &c.
directly, for himself or any other person, buy or re-
ceive, by way of barter, loan, or exchange, any tobac-
co whatsoever; under the penalty of forfeiting twenty

shillings for every hundred pounds of tobacco so bought or received.

Proviso.

XLIX. *Provided always,* That nothing herein contained, shall be construed to hinder any inspector from receiving his own proper debts or rents, in tobacco, which shall be first viewed, examined, and stamped, according to the directions of this act.

Penalty on inspectors taking gratuity.

L. And for the further and better direction of the inspectors aforesaid, in their duty, *Be it enacted,* That no inspector shall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done, in pursuance of this act, other than his salary, and the other payments and allowances herein before mentioned and expressed. And if any inspector shall take, accept, or receive, any such gratuity, fee, or reward; every such inspector being thereof convicted, shall forfeit and pay fifty pounds current money: To be recovered, with costs, by any person or persons who shall inform, or sue for the same, by action of debt, bill, plaint, or information, in any court of record, within this dominion: And moreover, shall be disabled from holding the place or office of an inspector, during the continuance of this act. And if any person or persons shall offer any bribe, reward, or gratuity, to any inspector, for any thing by him to be done, in pursuance of this act, other than the fees and allowances herein before mentioned and appointed; every person so offending, and being thereof convicted, shall, for every such offence, forfeit and pay the sum of ten pounds current money: To be recovered, in any court of record, within this dominion: One half of which said forfeiture, shall be to our sovereign lord the king, to and for the use of such inspector refusing such bribe or reward; and the other half to the person or persons who will inform, or sue for the same.

And upon persons offering.

Tobacco when to be reviewed,

LI. *And be it further enacted,* That when any person shall be intitled to receive a hogshead of tobacco, by virtue of any inspectors notes or receipts, the inspectors shall be obliged to open the hogshead, and shew such tobacco to the person demanding the same, if required, whether such tobacco be crop or transfer: And if such person shall refuse to accept of the tobacco offered or tendered in payment, as bad, unsound, and unmerchantable; such person so refusing, and not accepting thereof, shall make immediate application to

any three justices, near or nearest to the warehouse at which the tobacco so refused, shall be offered or tendered in paiment, who are no ways related to the parties, nor concerned in interest: And the said justices shall take an oath, before some other justice of the said county, (which oath such justice is hereby impowered and required to administer) carefully to view and examine the said tobacco, and, to the best of their skill and judgment, not to pass any tobacco that is not sound, well conditioned, merchantable, and clear of trash, according to the directions of this act; and that they will therein do their duty, according to their judgment and conscience, without fear, favour, affection, malice, or partiality. Which said three justices so sworn, are hereby directed, impowered, and required, upon such application, to repair to the warehouse where such tobacco shall be offered or tendered in paiment, and carefully to view and examine the same, in such manner as they shall think fit: And if any two of them shall adjudge the tobacco so tendered in paiment, to be bad, unsound, or unmerchantable, to cause the same to be immediately burnt: And for their trouble, the said three justices, who shall be present at such view, shall be paid by the inspector or inspectors who offered the same in paiment, five shillings each. And if the said justices or any two of them, shall adjudge the tobacco, so tendered or offered in paiment, to be good, sound, and merchantable, according to the directions of this act, the said justices so attending, shall be paid by the party desiring such view, five shillings, as aforesaid. And when any tobacco shall be tendered or offered in paiment, by any inspector, and refused, the said inspectors shall not be at liberty to tender or offer in paiment, nor the person demanding the same, to receive any tobacco, in lieu thereof, before such tobacco shall have been viewed, as aforesaid; but the person refusing, shall immediately mark the same. And if any inspector shall offer or tender in paiment, any tobacco, in lieu of the tobacco so refused, before the same shall have been viewed, as aforesaid, or shall not produce the same tobacco so refused, to the said justices; in either case, it shall be taken for a conviction, that the tobacco first tendered in paiment, was bad, unsound, and unmerchantable; And moreover the said inspectors shall forfeit and pay

Proceedings
when on a
review, the
tobacco
proves bad

ten pounds, for every such offence. And if the person, who shall refuse any hogshead of tobacco, as aforesaid, shall accept and receive another hogshead of tobacco, in lieu of that refused, before such hogshead so refused, shall be viewed, as aforesaid, he shall forfeit and pay ten pounds for every hogshead.

Further duties of inspectors.

LII. And when any prized tobacco shall be brought to any public warehouse, in order to be shipped on freight, and the inspectors there attending, shall refuse to pass such tobacco, unless such as shall be bad and unmerchantable be picked, and separated from the rest; in such case, the said inspectors shall permit the owner, or other person, bringing such tobacco, to make use of one or more of their prizes, for the re-packing and prizing such tobacco. And if there shall be several hogsheads of tobacco, belonging to several owners, to be picked, repacked, and prized, at any public warehouse, the owner, or other person, bringing the same, whose tobacco shall be first viewed and refused, shall be first permitted and allowed to make use of such prize or prizes; and the same rule shall be observed, in the prizing all tobacco which shall be picked, repacked, and prized as aforesaid. And for all tobacco re-packed and prized, by the owner thereof, or the servants and slaves to him belonging, there shall be paid to the inspectors thereof, only three shillings, for stamping; and for all tobacco re-packed and prized by the inspectors, five shillings, for each hogshead; and also six pence for nails, unless the proprietor shall find and provide nails. And no inspector shall take or convert to his own use, or otherwise dispose of, any draughts or samples of freight or crop tobacco, but the same (if fit to pass) shall be put into the hogshead, out of which it was drawn, under the penalty of forfeiting twenty shillings, for every draught so taken away, contrary to the directions of this act: To be recovered before any justice of the peace of the county wherein such offence shall be committed. And all inspectors, if required, shall alter the mark of any hogshead of tobacco, for which they have before given a receipt; and for preventing confusion and mistakes, shall keep a waste book, in which shall be entered the marks and numbers of all hogsheads of tobacco received by them; and another book in which shall be entered the marks and numbers thereof, when the same shall be

delivered out by them. And all inspectors, when required, shall be obliged to prize any hogshead of crop tobacco, under eight hundred and fifty pounds nett, so as to make it up that weight; but shall receive the same fee upon such hogshead, as for transfer tobacco, and may make the lawful abatements, for the tobacco prized in. And where any tobacco shall be brought to any warehouse, by the overseer of the owner thereof, the inspectors shall give notes and receipts, in the name of the owner, and not of the overseer.

LIII. *And be it further enacted, by the authority aforesaid,* That any light hogshead or parcel of tobacco, after the same shall be passed at any public warehouse, and not stamped, shall and may be delivered out by the inspectors, to the owner of their notes; and such tobacco may be carried away, for the better sorting and stemming the same; provided the person receiving such tobacco shall pay for the inspection thereof, after the rate of five shillings for every eight hundred pounds weight; and so in proportion for a greater or lesser quantity: And that such tobacco shall not be shipped off, until it shall be again inspected, passed and stamped; for which, the inspectors shall again receive the established fees, under the same penalties, as are herein before inflicted, for shipping off and taking on board any ship, or other vessel, tobacco not inspected, viewed, and stamped, according to the directions of this act.

Light hogsheads how disposed of.

LIV. *And be it further enacted,* That the owner of any transfer notes, may, at any time, receive and mark hogsheads of tobacco, for satisfying such notes, and the inspectors shall take in their former notes, and deliver crop notes and receipts for such hogsheads, and shall be answerable for the safe keeping thereof, in the same manner as they are for crop tobacco: But the person receiving such hogsheads, shall pay to the inspectors, five shillings and six pence, for the inspection and nails, for every hogshead; that is to say, two shillings and six pence down, and three shillings when the tobacco shall be delivered out. And the inspectors shall sell all transfer tobacco, which shall not be so received and marked, before the time of holding the court of their respective counties, in the month of October, yearly, by public auction, in their county courts, respectively held in that month; and shall pay the money

Transfer notes how converted into crop.

When to be sold.

arising by such sale, in satisfaction of their notes, from time to time, to the proprietors thereof making their demand; under the same penalty, as is inflicted, for not paying inspectors notes.

Inspectors
when to
make return
to court.

LV. And for preventing frauds that may be practised, by selling only part of such tobacco not received, as aforesaid, *Be it enacted*, That all inspectors at the said court held for their county, in October, shall lay before the court, an account, upon oath, of all the transfer tobacco, at that time in their hands, before the same shall be exposed to sale: And if there be no court in that month, then such inspectors shall make oath to their account, before any justice of their county and deliver the same to him; who is hereby required to return the same to the next court that shall be held for his county. And all inspectors shall keep a just and true account of the tobacco gained or saved, upon the allowances made for cask or shrinkage of transfer tobacco: And if any tobacco shall be so gained or saved, shall exhibit an account thereof, upon oath, in the same manner as is before directed, concerning transfer tobacco not received; and shall also sell the tobacco so gained and saved, in the same manner as is directed for the sale of transfer tobacco; and shall account for the money arising by such sale, to the treasurer of this colony, for the time being, in their next account with him: And the said treasurer shall account for the same, to the General Assembly. And no inspector shall convert any tobacco so gained or saved, to his own use.

When to ac-
count with
treasurer.

LVI. *And be it further enacted by the authority aforesaid*, That all inspectors shall annually, before the tenth day of November, in every year, account with the treasurer of this colony, upon oath, for all monies received, or which ought to be received by them, by virtue of this act, (except the money paid for nails) for every hogshead of transfer: In which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements in pursuance of this act.

Proceed-
ings against
inspectors,
for breach
of duty.

LVII. And for the better detecting of inspectors who shall not do their duty, and the more speedy and easy examination into complaints against them, *Be it further enacted*, That any three justices of the peace, not being inspectors, whereof two shall be of the quorum, shall have power to hear all complaints against

any inspector, within their county; and to take the depositions of witnesses, upon the matter of such complaint, on both sides: Which shall be transmitted by them, to the governor and council, for their determination. And to the end such depositions may be taken in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices, for that purpose; and be paid by the county, the same fee as is or shall be by law established, for attending the examination of witnesses upon a *dedimus potestatem*: And moreover, the said justices shall have power to visit all or any of the publick warehouses within their county; and if they shall discover any negligence in the inspectors, either in securing the tobacco, or stowing the same away in a proper manner, for saving the room in such houses; or that they do not keep a sufficient number of hands for dispatching the business; or do not attend constantly, according to the directions of this act; or, that they are guilty of any other breach or breaches of their duty; the said justices shall certify the governor and council thereof. And if thereupon any inspector shall be adjudged guilty of a breach of his duty, he shall be removed from his office; and for ever after be incapable of serving as an inspector. And if any inspector shall be removed from his office, upon a complaint, and prosecution against him, in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor, for his necessary costs and expences in such prosecution; in which the prosecutor shall recover his full costs of suit: And every inspector shall moreover be liable to the action of the party grieved, for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect, of any such inspector; in which action, the plaintiff shall recover his full costs, altho' the damages do not exceed forty shillings.

LVIII. *And be it further enacted, by the authority aforesaid,* That all the penalties and forfeitures in this act contained, not herein before particularly appropriated, shall be one moiety to our sovereign lord the king, his heirs and successors; to be applied towards defraying the charges of the execution of this act; and the other half to the person that will inform or sue for the same: And shall and may be recovered with

Costs.

Penalties,
how recover-
able & ap-
propriated.

costs, by action of debt, or information, in any court of record within this dominion, where the penalty or forfeiture exceeds twenty-five shillings, or two hundred pounds of tobacco; and where the same do not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

Limitation
of prosecu-
tion.

LIX. And whereas ill disposed persons may be encouraged to offend against the acts of Assembly here- in before recited, and now in force, *for amending the staple of tobacco and preventing frauds in his majesty's customs*, in hopes to escape punishment, by reason of the expiration of the said acts: For preventing thereof, *Be it enacted, by the authority aforesaid, That* all penalties and forfeitures laid and imposed, in and by any of the said recited acts; and all breaches of and offences against the same, shall and may be sued for, and prosecuted, and judgment given in such suits and prosecutions, notwithstanding the said acts shall be expired at the time of the prosecutions begun, or judgment given in the same manner as such suits and prosecutions might have been commenced, and judgments given in case the said acts were not expired; any law, statute, custom, or usage, to the contrary thereof, in any wise, notwithstanding. *Provided always, That* such prosecution be commenced within one year after the offence committed.

Continuance
of this act.

LX. *And be it further enacted That* this act shall continue and be in force, for the term of four years, from the ninth day of November next.

CHAP. II.

An Act for continuing the Act, intituled, an Act for laying a Duty upon slaves, to be paid by the Buyers.

Preamble.

I. **W**HEREAS, the act of Assembly, made in the fifth and sixth years of the reign of his present majesty, intituled, *an act for laying a duty upon slaves, to be paid by the buyers*; which was continued, by one other act, made in the eighth year of his present majesty's reign; and was further continued and amended, by one other act, made in the twelfth year of his present majesty's reign, will expire on the last day of

July, in the year of our lord one thousand seven hundred and forty-four; And the same having been found very easy to the subjects of this colony, and no ways burthensome to the traders in slaves; and, at this juncture, very necessary to be continued, in order to discharge the public debts:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That the said first mentioned act, made in the fifth and sixth years of his majesty's reign, intituled, an act for laying a duty upon slaves, to be paid by the buyers; and the said act, made in the twelfth year of his said majesty's reign, for amending the same; and also one other act, made in the tenth year of his said majesty's reign, intituled, an act for laying a duty upon liquors imported by land, and better securing the duty upon slaves, and for other purposes therein mentioned, as to so much thereof as relates to the duty upon slaves, and is not repealed or altered by the said other act, made in the twelfth year of his majesty's reign, shall continue, and be in force, from the said last day of July, one thousand seven hundred and forty four, for and during the term of three years, from thence next following, and no longer.*

Former acts
for laying a
duty upon
slaves, con-
tinued for
three years,
from the last
day of June,
1744.

CHAP. III.

*An act for continuing and amending the Act, intituled,
An Act, for laying a duty upon liquors.*

I. **W**HEREAS, the act made in the fifth and sixth years of his present majesty's reign, intituled, *an act, for laying a duty upon liquors; which was continued by one other act, made in the eighth year of his said majesty's reign; and was further continued and amended by one other act, made in the twelfth year of his said majesty's reign; will expire on the last day of July, in the year of our lord, one thousand seven hundred and forty-four; which said acts have been found by long experience, to be an easy expedient for raising money, to answer the exigencies of the government, and lessening the poll tax:*

Preamble.

Form^{er} acts
contin^{ued} for
two years,
from the
last day of
July, 1744.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgessess, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said act, made in the fifth and sixth years of his majesty's reign, intituled, an act for laying a duty on liquors; and the said act, made in the twelfth year of his said majesty's reign, for continuing and amending the same; and also one other act, made in the tenth year of his said majesty's reign, intituled, an act for laying a duty on liquors imported by land, and better securing the duty upon slaves, and for other purposes therein mentioned, as to so much thereof as relates to the said duty imported by land, shall continue, and be in force, from the said last day of July, one thousand seven hundred and forty-four, for and during the term of two years, from thence next following and no longer.*

Owner of li-
quors export-
ing the
same, within
six months
after the im-
portation, to
be allowed
the whole
duty.

III. *And be it further enacted, That during the continuance of the said acts, if the owner of any liquors, of which the duties or customs shall be paid, or secured to be paid, shall, within six months after the importation thereof into this colony and dominion, be desirous to export the same, or any part thereof; in such case, the person intending to export it, shall give a particular account of the marks, numbers, and contents of the casks or vessels containing the liquors he intends to export, to the collector of such district from whence the same is to be shipped for exportation, together with the name or names of such person or persons from whom the same was bought; and shall subscribe it also, and make oath thereto, before the said collector; at which time he shall also declare, upon oath, that the said liquors shall be directly carried out of this dominion, and not sold, delivered, or put on shore within the same, or brought back again, without making a new entry, and paying the duty; and shall also deliver to the collector aforesaid, an account in what vessel the same was entered at importation, with the oath of the person or persons by whom it was imported, that the duty or custom thereof was, at the time of entry, duly paid, or secured to be paid, according to law; And then it shall and may be lawful for the collector, where the duty or custom for the same was paid, or secured to be paid, and he is hereby required and enjoined, to allow to the said exporter, the*

whole duty or custom paid, or secured to be paid, for the said liquors so to be exported; any thing in any former act to the contrary, in any wise, notwithstanding.

IV. And whereas it has been found, that some persons within this colony, do often export by land, liquors, on which there is allowed a draw-back, and frequently run the same back again, without making entry thereof, or paying the duties or customs imposed thereon, to the manifest prejudice of the fair trader, and the diminution of the duties: For the prevention of such practices for the future, *Be it enacted*, That from and after the passing of this act, no draw back shall be allowed, on any liquors exported out of this Colony, by land.

V. *And be it further enacted*, That if any person or persons shall, after the passing of this act, export liquors, on which there is a draw back, to the province of Maryland; before such person exporting the same, shall be entitled to the draw-back thereof, he shall produce to the collector of the duties, from whose district the same was exported, a certificate, under the hand of the officer of the customs, in Maryland, that the said liquors were entered and landed there. And for the preventing of frauds in the importation of money, by land.

VI. *Be it further enacted*, That all persons importing money, with intent to pay the duties on liquors and slaves; such person or persons, before they shall obtain a certificate thereof, besides the proof already required by law, shall make oath, that the money imported, was not carried out of this colony, with an intent to be brought back again; and that it was not exchanged in any adjacent province, for monies carried from this colony, with any view to obtain the benefit of the allowance on duties paid with imported money.

No drawback to be on liquors exported by land.

Persons exporting liquors to Maryland, to produce a certificate, that the liquors were entered and landed there.

Oath to be made by importers of money, before obtaining a certificate.

CHAP. IV.

An Act for inspecting, weighing, and stamping all pork, and beef, packed in this colony, or imported for sale, before the same shall be sold here or shipped for exportation; and to amend the Act, intituled, An Act, for ascertaining the gauge of barrels for pork, beef, tar, and pitch.

Preamble.

I. **W**HEREAS the act of Assembly, made in the fourth year of the reign of her late majesty queen Anne, intituled, *an act, for ascertaining the gauge of barrels for pork, beef, tar, and pitch*, is found, by experience, ineffectual, to restrain the frauds and abuses practised by the sellers of these commodities; to the manifest prejudice of the fair trader, and to the great depreciating the value of such merchandize,

No pork or beef to be exported till packed in barrels.

County courts annually, to appoint persons to inspect the package, and weigh all pork or beef for sale or exportation.

Contents of the barrels ascertained.

To be stamped and certified.

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same, That from and after the first day of October next, no pork or beef shall be exported out of this colony, until the same be packed in barrels, under the regulations hereafter expressed. And the justices of every county court of this dominion, shall be impowered, and they are hereby authorized and required, in the month of August, or September, annually, to nominate and appoint, in open court, one or more, not exceeding six in any one county, fit and able person or persons, residing in the same county, to inspect the package and weigh all pork and beef, packed for sale, or exportation, within their respective counties.*

III. *And be it further enacted, That every barrel of pork, or beef, packed within this colony, for sale or exportation, or imported here, shall contain at least two hundred and twenty pounds nett. of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, and no more than two heads of pork in one barrel: And after the same has been inspected, weighed, found merchantable, and past, by the inspector or inspectors, residing in the county where the said pork or beef is packed, every barrel shall be by him or them stamped or branded, distinguishing upon the head of every pork barrel, whether it is large*

or small pork; and a certificate of the marks and numbers of all barrels, so passed and stamped, shall be, by the inspector or inspectors, given to the owner.

IV. *And be it further enacted*, That every person appointed as aforesaid, to inspect, weigh, and stamp pork and beef, shall, before he enters upon the execution of that office, make oath, before the court of his county, “carefully to view and examine, when required, all “pork and beef, packed for sale, or exportation; and “to the best of his skill and judgment not to pass or “stamp any barrel of pork, or beef, that is not good, “clean, sound, merchantable, and of due weight, according to the directions of this act; and faithfully “to discharge the duty of his office, without favour, “partiality, or other by-respect.” And shall constantly attend, upon notice, at such time and place as the owner of the pork or beef to be inspected, shall appoint to inspect, and see packed, weigh, stamp, and certify, all pork and beef to him tendered for inspection, within his county; and shall provide a stamp or stamps, with the first letter of his county, the letter V, for Virginia, the first letter of his own christian name, and his whole surname at length, to be stamped on each barrel by him passed; for which he may demand and take six pence, for every barrel by him inspected, and no more; to be paid by the owner, before certificate given. And if any officer so appointed and sworn, shall neglect his duty, or shall stamp and certify pork, or beef, not packed, qualified, and of due weight, as this act requires, he shall forfeit and pay five shillings, for every offence, to the informer; recoverable before any justice of the peace.

Inspectors
to be sworn.

Their duty
& allowance.

Penalty for
breach of
their duty.

V. *And be it further enacted*, That all persons intending to export pork, or beef, shall deliver the inspector's certificate of the marks and numbers of every barrel to be exported, to the master of the ship or vessel wherein the same shall be shipped; to be by him produced to the naval officer of the district where such ship or vessel rides. And every master of a vessel, wherein pork, or beef, shall be exported, shall make oath “that he will not knowingly take, or suffer to be “taken on board his ship or vessel, any pork, or beef, “not stamped and certified, according to this act.” Which oath, the respective naval officers of this colony, are hereby impowered and required to administer.

Masters of
vessels to
produce certificate to
naval officer, &
be sworn.

Pork or beef packed, and not stamped and certified or unpacked, if shipped, for exportation, liable to be seized and forfeited. And if any pork, or beef, packed in barrels, for exportation not stamped, and certified, as by this act directed, or any parcels of pork, or beef, not packed in barrels, (except for necessary provisions) shall be put on board any ship or vessel, to be exported; every such barrel, or parcel of pork, or beef, may be seized by any sworn officer, and brought on shore; and shall be forfeited to the informer; recoverable before a justice of the peace. And the officer making such seizure, may demand and take the same fees as for serving execution; to be paid by the party for whom the seizure was made. And if any officer shall be sued, for any thing by him done, in pursuance of this act, he may plead the general issue, and give this act in evidence; and upon nonsuit, or a verdict for the defendant, he shall have double costs. And the master of such ship or vessel, shall forfeit and pay twenty shillings for every barrel of pork, or beef, so taken on board; recoverable before a justice of the peace, in any county in this colony, if the sum does not exceed five pounds; and if it is more, then to be recovered by action of debt, or information, in any court of record, of this dominion.

Penalty upon masters taking it on board.

All barrels of pork or beef, for sale or barter, shall contain 220 pounds nett meat under a penalty.

Penalty, how to be recovered.

VI. And be it further enacted, That all pork, and beef, exposed to sale, or barter, within this colony, in barrels, whether the same be packed here, or imported from Carolina, or any other place, shall contain at least two hundred and twenty pounds, nett meat, allowing only two and an half per cent. for shrinkage, or loss of weight, packed, stamped, and certified as this act directs. And if any person shall sell, or expose to sale, pork, or beef, in barrels of less weight, he or she shall forfeit and pay, to the informer, twenty-four shillings current money, for every such barrel sold, or exposed to sale, recoverable before a justice of the county where such offence shall be committed, although the penalty shall exceed twenty shillings sterling. And every justice of the peace, upon such complaint, and due proof thereof before him made, shall and may by virtue of this act, enter up judgment for the whole penalty, and award execution thereupon; any law to the contrary notwithstanding. *Provided nevertheless,* That from such judgment, for more than twenty shillings sterling, the party grieved may appeal to the next court to be held for the county wherein such complaint was made; the appellant giving bond, with sufficient

security, before the justice entering up such judgment, that he will prosecute his appeal with effect, and pay all costs und damages awarded by the court, if the judgment be affirmed. And the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings upon the complaint before him made, to the same court to which such appeal shall be. And such court shall and may receive, hear, and finally determine the same.

VII. *And be it further enacted*, That every seller, or exporter, of beef, or pork, packed in this colony, and stamped, shall make oath before a justice of peace, within three days before delivery of the goods sold or exported, “That the several barrels of pork, or beef, “by him intended to be sold, or exported, are the same “that were inspected and stamped, and do contain the “full quantity, without embezzlement to his knowledge.” And shall obtain a certificate of such oath by him made, to be delivered to the buyer, and, upon exportation, to the master of the vessel, and by him returned to the naval officer, together with the inspector’s certificate, as herein before directed.

Seller or exporter of pork or beef to be sworn.

VIII. *And be it further enacted*, That every cooper, and every master or owner of a servant or slave, setting up barrels for pork, or beef, shall make the same with good, strong, well seasoned timber, half an inch thick at least, tight, well hooped, and containing from twenty nine to thirty one gallons each, with his name or the name of the master of such servant or slave, at length, stamped or branded, upon every barrel; under penalty of two shillings and six pence, to the informer; recoverable before a justice of peace.

Make and size of barrels ascertained.

IX. And whereas the penalties by the before recited act, laid upon persons setting up, selling or exposing to sale, or exporting tar, or pitch, in barrels contrary to the directions of that act, or mixed with trash, or not filled with clean tar or true made pitch, have been found excessive, and not well adapted to trade; *Be it therefore enacted*, That every person, setting up, or causing to be set up, barrels for tar, turpentine, or pitch, shall make, or cause the same to be made, of good, strong, well seasoned timber, tight, well hooped, and each barrel to contain thirty one gallons and a half, wine measure, at least; under penalty of two shillings and six pence per barrel; recoverable by the

Recital.

The dimensions of barrels for tar, turpentine or pitch.

Penalty.

Barrels of tar
turpentine,
or pitch, of
less contents
or if mixed
with trash,
or not filled,
to be forfeit-
ed.

So much of
the former
act as is con-
trary to this
repealed.

Commence-
ment and
continuance
of this act.

informer before a justice of the peace. And if any person shall sell, expose to sale, or barter, or export tar, turpentine, or pitch, in barrels of less contents than by this act required; or tar, pitch, or turpentine, in any barrels mixed with trash, or not filled with clean tar, true made pitch, or good turpentine, the party so offending, shall forfeit and loose every such barrel of tar, pitch, or turpentine, found contrary to this act, to the informer; recoverable before any justice of the peace of this colony: And that so much of the aforesaid act of the fourth year of queen Anne, as relates to any matter or thing within the purview of this act, shall be, and is hereby repealed, and made void.

X. *And be it further enacted*, That this act shall commence the first day of October next, and remain and be in force for three years; and from thence to the end of the next session of Assembly; and shall be deemed a publick act.

CHAP. V.

An Act, to allow persons not concerned in making tobacco, to discharge levies and officers fees in money.

Preamble.

Where tobacco dues payable in money.

Penalty upon sheriff, or collector, exacting a greater price.

I. **F**OR the more easy payment of all levies, secretary's, clerks, sheriffs, and other officers fees, by the inhabitants of this colony, who make no tobacco, *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That all and every the inhabitants of this colony, who are not employed or concerned in planting or making tobacco, shall be at liberty, at all times hereafter, to pay and discharge all levies and officers fees, wherewith they shall be chargeable, in current money, at such prices and rates for tobacco, as shall be settled by the courts of their respective counties, at the time of laying the county levy, in every year: And the justices of every county court are hereby authorized and required to settle the same accordingly. And every sheriff, or collector, exacting a greater price, shall for every such offence, forfeit and pay the sum of five pounds to the party grieved: To be recovered, with costs,

by action of debt, or information, in any court of record in this dominion.

II. And for preventing disputes, what persons are meant and intended, by this act, to be allowed to pay the levies and fees aforesaid, in money; and in what proportion, the public, county, and parish creditors, shall be obliged to accept the money so to be paid, for the said levies, *Be it further enacted, by the authority aforesaid,* That no person or persons whatsoever, shall be allowed to pay and discharge the levies and fees, wherewith he, she, or they, is or are chargeable, in money, by virtue of this act, but such only as shall be approved of, by the county court, at the time of laying the levy in every year, and declared, by the said court, to be within the intent and meaning of this act. And the clerk of every county court shall enter upon record, the names of the several persons so approved of, by the court and deliver a list of the names of such persons to the sheriff of his county, within twenty days after the laying of the levy: under the penalty of five pounds: To be recovered by the said sheriff, to his own use, by action of debt, or information, in any court of record, No person to be allowed the liberty of this act, unless approved of by the court.

And the said county courts respectively, shall, at the time of laying their levy, settle and apportion how much of the money so to be paid, in discharge of levies, as aforesaid, shall be paid to each public and county creditor, respectively. And the vestries of every parish shall in like manner, every year, at the laying of the parish levy, settle and apportion how much of such money shall be paid to each parish creditor, respectively. And every public, county, and parish creditor shall, and is hereby obliged, to accept and take of the sheriff, or other collector of the said levies, so much of the money as shall be so settled and apportioned, in lieu of the tobacco he might otherwise have claimed. County court clerk to enter their names upon record, and deliver a list to the sheriff, under a penalty.

And the several officers, to whom any fees shall be due, from the persons hereby allowed to pay the same in money, shall and they are hereby obliged, to accept and take of the sheriff, or other collector, of the said fees, the money to be paid, by virtue of this act, in full satisfaction of the same; any former law, custom, or usage, to the contrary, in any wise, notwithstanding. County courts to apportion the money so to be paid, among the public and county creditors.

And the several officers, to whom any fees shall be due, from the persons hereby allowed to pay the same in money, shall and they are hereby obliged, to accept and take of the sheriff, or other collector, of the said fees, the money to be paid, by virtue of this act, in full satisfaction of the same; any former law, custom, or usage, to the contrary, in any wise, notwithstanding. Creditors and officers obliged to accept of the money, in lieu of tobacco.

III. *And be it further enacted,* That this act shall continue, and be in force, for the term of one year, and Continuance of this act.

from thence to the end of the next session of Assembly, and no longer.

CHAP. VI.

An Act, to explain and amend part of an Act, intituled, an Act, directing the duty of Surveyors of land, and ascertaining their fees, for so much as relates to issuing plots, or copies of surveys.

Preamble.

I. **W**HEREAS, by an act of Assembly, made in the fourth year of the late queen Anne, intituled, *an act, directing the duty of surveyors of land, and ascertaining their fees*, it is, among other things, enacted, that every surveyor shall within six months after survey, give to his employer, a survey and plot of the said land, so by him surveyed and laid out: And that no surveyor, within six months after survey made, give a copy of the said survey, or plot, other than to the person that first in a lawful manner employed him to make the said survey. And whereas, for their own private profit, and to avoid the delivery of their accounts to the sheriff, to be by him collected in a legal manner, several surveyors have presumed, immediately after the time therein limited, to issue certificates of surveys by them made, to any person applying for the same, and paying down the surveyors fees; and do accordingly grant and issue such certificates; whereby many controversies, and expensive law-suits have been encouraged, to the oppression and ruin of poor families: For remedy whereof, for the future,

Surveyors not to issue or deliver certificate, copy or plot of land, to any other person than the person for whom the land was surveyed, or his order, unless his fees are refused to be paid, or the land is

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing this act, no surveyor shall, at any time, issue or deliver any certificate, copy, or plot, of land, by him surveyed, to any other than only to the person or persons for whom the land in such certificate, copy or plot mentioned, was or shall be surveyed, or to his or their order; unless such person or persons shall refuse to pay the surveyor's fees, for making such survey; to be proved by the sheriff's return upon the surveyor's accounts delivered him to collect, certifying, that the party has no effects in his*

Bailiwick, whereupon he can levy the same; or shall have legally forfeited his or their right to the land; to be proved by an authentic copy of the order of council, declaring such forfeiture, produced to the officer. And if any surveior shall hereafter presume to issue any certificate, copy, or plot, of any survey made within his county, to any other than the person or persons by this act entitled thereto, every surveior so offending shall be liable to the action of the party grieved, his executors or administrators, for damages, and costs: To be recovered in any court of record, within this dominion.

legally
forfeited,
under a pe-
nalty.

CHAP. VII.

An Act, for repealing part of an Act, intituled, an Act to prevent frivolous and vexatious suits; and to regulate Attornies practising in the county courts.

I. **W**HEREAS, by one act of Assembly, made in the fifth and sixth years of the reign of his present majesty, intituled, *an act, to prevent frivolous and vexatious suits, and to regulate attornies practising in the county courts*, it is, among other things enacted, that no person whatsoever, shall practise as an attorney, in any county court, or other inferior court, in this colony, without a license first had and obtained from the governor and council, in manner as in the said act is mentioned. And whereas the said provision hath not been found to answer the good design and intention thereof.

Preamble.

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That so much of the said recited act, as relates to the granting licenses to, and regulating of attornies, practising in the county courts, be, and is hereby repealed and made void.*

Repealing
clause.

CHAP. VIII.

An Act, for paying the Burgesses wages in money, for this present session of Assembly.

Recital of the
3d and 4th
George II.

Causes of the
deficiency
in the trea-
sury.

Burgesses to
be paid on
the 30th of
April next.

I. **W**HEREAS, by one act of Assembly, made in the third and fourth years of the reign of his present majesty, intituled, *an act, for the better regulating the payment of the Burgesses wages*, it was, amongst other things, enacted, that when any session of Assembly should be thereafter held, and, upon examination of the treasurer's accounts, it should appear that there are monies sufficient in his hands, to discharge all the money debts, together with the Burgesses wages, and the salaries and allowances to the respective officers of the General Assembly, leaving and reserving, in the hands of the treasurer, over and above the said payment, a ballance of one thousand five hundred pounds, at the least; then every burgess elected, and serving, for any county, or corporation, within this dominion, should be paid out of the said public money, the sum of ten shillings for each day he should serve in the house of Burgesses; with such further allowances, and under such restrictions and regulations, as in the said act is at large directed. And whereas, by reason of the large sums of money given and granted to his majesty, at the two last sessions of Assembly, towards defraying the expence of victualling and transporting the soldiers raised in this colony, to serve against the Spaniards: And also, by reason of a great arrearage of the duties upon liquors and slaves, the wages of the Burgesses for this present session cannot be discharged in money, according to the letter of the said act; but it is likely, that by receipt of the said arrearages, and otherwise, there will soon be money sufficient in the hands of the treasurer: And forasmuch, as the payment of the Burgesses wages in money, for this present session, will be a great ease to the poorer sort of people, by lessening the levy by the poll,

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the Burgesses wages, for this present session of Assembly, shall be paid by the treasurer, on the thirtieth day of April next ensuing, out of the public money*

then in his hands, according to the directions and regulations, in the said recited act mentioned; any thing in the said act contained, to the contrary thereof, in any wise, notwithstanding.

CHAP. IX.

An Act, for appointing a Treasurer.

I. **W**HEREAS, by one act of Assembly, made in the twelfth year of his majesty's reign, John Robinson, the younger, esquire, was appointed treasurer of the revenue, arising by two several acts of Assembly, *for laying a duty upon liquors*; the one made in the twelfth year of the reign of his late majesty king George the first; and the other made in the fifth and sixth years of the reign of his present majesty; and by one other act of Assembly, made in the fifth and sixth years of his present majesty's reign, *for laying a duty upon slaves*, to hold the said office of treasurer, so long as he should continue speaker of the house of Burgesses; and from the time of his being out of that office, until the end of the next session of Assembly. And whereas, the said first mentioned act will expire, at the end of this session of Assembly; and it being expedient that a treasurer should be appointed.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this act, John Robinson, the younger, esquire, shall be, and he is hereby nominated, constituted, and appointed treasurer of the revenue arising from the duty upon liquors, and slaves, laid and imposed by the three several acts before mentioned; and also of the duty laid and imposed, by one other act of Assembly, made in the thirteenth year of his said majesty's reign, intituled, an act, for laying an additional duty upon slaves, to be paid by the buyers; for encouraging persons to enlist in his majesty's service; and for preventing desertion; to hold the said office so long as he shall continue speaker of the house of Burgesses; and from the time of his being out of that office, until the end of the next session of Assembly; And the said John Robinson is hereby author-*

Recital.

A treasurer appointed.

Tenure of his office.

ized, impowered, and required, to demand, receive, and take, of and from the several collectors of the said duties, all and every the sum and sums of money, arising by force and virtue of the said acts, or any, or either of them; and shall apply and utter the same, to and for such uses, and upon such warrants, as by the said acts, for laying the said duties, or by any other act or acts of the General Assembly is, or shall be appointed or directed; and shall be accountable for the said money to the General Assembly.

His salary.

III. *And be it further enacted, by the authority aforesaid,* That the salary of four pounds in the hundred, and so proportionably for a greater or lesser sum, shall be allowed and paid to the said treasurer hereby appointed, out of all and every the sum and sums of money by him received, and accounted for, to the General Assembly, as aforesaid: And that there shall be also allowed to the said treasurer, for auditing and settling the accounts of inspectors of tobacco, during the continuance of the laws in that behalf made, the sum of fifty pounds per annum, for his trouble and service therein. *Provided always,* That the said treasurer, before he enters upon his office, shall give such sufficient security as shall be approved by the governor, or commander in chief, of this colony, in the sum of ten thousand pounds, for the due answering and paying all the money by him, from time to time, to be received as aforesaid. And to the end, a treasurer may not be wanting, in case of the death, resignation, or disability of the treasurer hereby appointed.

Security to be given.

In case of his death, &c. Governor may appoint another.

IV. *Be it further enacted,* That in either of these cases, it shall be lawful for the governor, or commander in chief, of this colony, with the advice of the council, for the time being, to appoint some other fit and able person, to be treasurer of the duties, to hold the said office, with all powers, authorities, salaries, and profits aforesaid, until the end of the next session of Assembly.

CHAP. X.

An Act, for enabling the justices of the county courts to make contracts, which may be binding upon themselves, and their successors.

I. **W**HEREAS, the expence of building bridges over little rivers and creeks, and making causeways in the counties, if levied at several times on the tithables, would scarcely be felt; but is generally too burthensome to be paid at once: And it being a doubt, whether the justices have power to make an annual charge thereof in their levy, several little ferries have been appointed by them, at places where bridges might be built, much more for the convenience of travellers.

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same, That the justices of every county court in this colony, be, and are hereby authorized and impowered, to contract and agree for the building of bridges, making causeways, and other necessary charges, in such manner as to them shall seem most proper; and to levy the expence thereof, at such times, and in such proportions, as they shall think most for the ease and benefit of the people: And all and every contracts, agreements, and orders, by them made, from time to time, concerning the same, shall be good, binding, and available, against themselves, and their successors, and all other persons whatsoever.*

Justices of the county courts may agree for necessary county charges, and levy the expence thereof, as they shall think fit; and such contracts shall be binding and conclusive.

CHAP. XI.

An Act, to oblige the Inspectors to attend at the Warehouses, 'til the last day of August, in this present year.

I. **W**HEREAS, it will be necessary for the inspectors of tobacco, to attend at the warehouses, this year, longer than they are now obliged by law, *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General As-*

Preamble.

Inspectors to attend 'til the last day of August, in this present year.

sembly, and it is hereby enacted, by the authority of the same, That every inspector of tobacco, shall constantly attend at some, or one of the warehouses under his charge, until the last day of August, in this present year, to receive and inspect tobacco, (except Sundays, or when hindred by sickness:) And no tobacco shall be received from that time, to the tenth day of November next following.

CHAP. XII.

An Act, for preventing losses from drivers passing with cattle through this colony; and for laying a duty upon horses imported.

Preamble.

I. WHEREAS, divers vagrant people travel through this colony from the northern provinces to the southern, peddling, and selling horses and either buy, or steal, great numbers of nett cattle, which, in their return back they drive through the frontier counties, and often take away with them the cattle of the inhabitants of the said counties, under pretence that they cannot separate them from their own droves; to the great damage of the said inhabitants: For prevention whereof,

Drivers of nett cattle into this colony, to produce manifest and bills of sale, and to make oath before the next justice of the peace.

II. Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the first day of December, now next ensuing, every driver of all nett cattle, shall immediately after their coming into this colony, go before the next justice of the county, and produce to him a true and perfect manifest, certified under the hand of a magistrate in the province from whence they last came, wherein shall be distinguished, the sexes, ages, marks, and colours, of all and every such cattle; and shall also at the same time produce bills of sales for them, and particularize the place of abode, and name of the seller; and make oath that he knows of no more cattle in his drove, than what are mentioned in the manifest and bills of sale. Which oath, the justice shall administer, and certify on the manifest, and shall enter in a book, by him to be kept for that purpose, a copy of the said manifest and certificate. And if any nett

Justice to enter the manifest in a book,

cattle shall be bought in this colony, in order to be driven into any neighbouring provinces, the driver shall produce his bill of sale to the next justice of the county where they shall be bought; and shall make oath, that the said bill is true, and that he knows of no more cattle in his drove, than what are mentioned in the said bill and manifest in case there be any. Which the justice shall enter and certify, in manner aforesaid; and shall also add a description of the cattle so bought, to the manifest, if any. And the like method shall be used by the drivers, and justices, in all the other counties in this colony through which they pass, upon their arrival therein. And if any driver shall fail therein, he, she, or they, shall forfeit and loose his, her, or their whole drove of cattle. And any justice of the peace, upon complaint thereof made to him, is hereby empowered to issue his warrant to the sheriff, or any constable of his county, forthwith to raise sufficient force and to seize the cattle, and to cause the driver or drivers to come before him, or any other justice of the county, who shall be empowered to hear the matter, and give a final judgment therein; and to order the cattle, if he shall judge them forfeited, to be sold by the sheriff; in the same manner as goods taken in execution; and the sheriff shall be allowed the same fee for the service; and shall be also allowed for keeping and providing for the said cattle, until they are sold, after the rate of two pence per head, for every twenty-four hours, out of the money arising from the sale.— But in case any person or persons, other than the driver or drivers so convicted, or their employers, shall appear before the justice before whom the judgment was obtained, before the cattle are sold, and shall make his, her, or their property in any of them appear, the sheriff shall, by order of such justice, restore the same to such owner or owners, upon payment of the charge of their keeping: Or if any owner or owners shall, within three months after the sale, make their property appear, as aforesaid, the sheriff shall pay him, her, or them, by order of the justice, for their cattle, according to the sale, after deducting a proportionable part of the charges: And at the expiration of the said three months, the money arising from the sale, shall be appropriated, one moiety to the churchwardens of the

to be kept for that purpose. Cattle bought in this colony, to be added to the manifest.

Like method to be used in every county.

Penalty. And how to be recovered.

Proviso.

Forfeiture appropriated.

parish where the driver shall be convicted, for the use of the parish; and the other moiety to him, her, or them, who did inform or prosecute, and shall be paid them, by the sheriff, accordingly: And the sheriff shall return an account of the sales, to the clerk's office, to be lodged amongst the records of the county.

Proviso.

III. *Provided always*, That nothing herein contained, shall be constrained to extend to any of the inhabitants of this colony, who shall buy any nett cattle, and be driving them home; or to any persons coming with their families and stocks, to settle in this colony.

Preamble.

IV. And whereas, the importation of horses, is of no advantage to this colony, the stock of them being already sufficient for the inhabitants, and the importers commonly vagrant people, who drain great sums of money out of this government, and pay nothing towards the support thereof,

Duty of 10l. laid upon every horse, mare or colt, imported.

V. *Be it further enacted, by the authority aforesaid*, That from and after the first day of December, there shall be levied, and paid to our sovereign lord the king, his heirs and successors, for all horses, mares, and colts, imported or brought into this colony, for sale, either by land or water, from any place or port whatsoever, in America, by the owner or importer thereof, after the rate of ten pounds for every such horse, mare, or colt; to be appropriated to such uses, as the General Assembly, shall from time to time, direct.

Collectors, by whom to be appointed, and to whom accountable.

VI. *And be it further enacted*, That the governor or commander in chief of this colony, for the time being, with the advice of the council, shall and may appoint such and so many collectors of the duty imposed by this act, as he shall think fit; which collectors shall reside near the frontiers of this colony; and shall be allowed a salary of six in the hundred, for receiving the said duty; and shall account for the same to the treasurer of this colony, for the time being, in such manner, and under such penalty, as the collectors of the duty upon liquors are obliged to account.

Entry to be made with the collector within six days after importation, & before sale; & duty to be

VII. *And be it further enacted*, That the importer of every horse, mare, or colt, liable to pay duty, by virtue of this act, bringing any such horse, mare, or colt, into any place or port within this colony, shall, within six days next after his arrival, and before he offers the same to sale, make a true and just entry, upon oath, with the next collector of the duty, of the

size, sex, colour, mark or brand, of every such horse, then paid, or mare or colt; and also of the name and place of abode secured. of the owner, and last owner thereof; and shall, at the same time, pay down the duty, or give bond to the said collector, with one security at the least, who shall be known and responsible inhabitant or inhabitants of this colony, for the payment of the said duty, within three months: And the importer failing to make such entry, pay down the duty, or give security as aforesaid, or making a false entry, shall forfeit and pay one hundred pounds: And every horse, mare or colt, by him imported, shall, and may be seized by any magistrate, or officer whatsoever; and shall be forfeited and sold.

Forfeiture:

And if any collector or collectors of the duty imposed by this act, or any other person or persons deputed and appointed, by or under them, or any of them, or any other authority whatsoever; shall, directly, or indirectly, take or receive any bribe, recompence, and reward, in any kind whatsoever, or shall connive at any false entry of any horses, mares, or colts, liable to a duty or custom by virtue of this act, by means whereof the duties or customs shall be defrauded, the person or persons therein offending, shall forfeit and pay the sum of one hundred pounds, and be forever afterwards disabled in his said office, and rendered incapable of holding any office or employment relating to the customs within this colony and dominion; and the person or persons giving or paying any such bribe, reward or recompence, shall forfeit and pay one hundred pounds.

Penalty upon collectors taking a bribe, and the person giving it.

VIII. *Provided always, and be it further enacted,* That if the importer of any horses, mares, or colts, of which the duty according to this act shall be paid, or secured to be paid, shall within three months after the importation thereof, into this colony, be willing to export the same, he shall make oath before the collector, with whom at their importation they were entered, "That the horses, mares, or colts, to be exported, are the same that were entered; and that he hath not sold or swapped them, since their entry; and the said horses, mares, or colts, shall be exported out of this colony within three days, and shall not be sold or swapped therein:" And then it shall be lawful for the said collector, and he is hereby required and enjoined, to allow the said importer the whole duty or custom paid for the said horses, mares, or

Drawback upon horses exported within three months.

colts, so to be exported; any thing in this act contained to the contrary, in any wise, notwithstanding. And every person making a false oath in this respect, shall be liable to and suffer the penalties inflicted by law for wilful and corrupt perjury: And moreover, such horses, mares, or colts, so to be exported, shall be forfeited, and sold.

Collector to give receipt for the duty, which the importer shall produce when required, under a penalty.

IX. *And be it further enacted, by the authority aforesaid,* That every collector, upon receipt of the duty by this act imposed, or taking bond for the same, is hereby enjoined and required, to give a receipt under his hand, for the money by him received, or bond taken, expressing the number of horses for which the same was paid, or bond taken, and the time of payment or taking thereof, with a description of such horses, to the person paying or giving the same. And every importer, liable to the payment of the duty by virtue of this act, shall, if thereunto required by any officer or magistrate in this colony, at any time after the expiration of three days from the time of such importation, produce and shew to the said officer or magistrate such receipt; and if such importer shall fail to produce such receipt, such failure shall be taken for a conviction, that the duty for which no receipt shall be produced, hath not been duly answered: And such importer, and horses, shall be liable to the forfeitures and penalties by this act inflicted, for not making an entry.

This act not to extend to travellers, or persons coming to reside in the colony.

X. *Provided always,* That nothing in this act contained, shall extend, or be construed to extend, to any traveller, who shall bring with him into this colony, only such horses as are necessary for his journey; and shall not sell or swap the same in the colony; or to any person or persons, who shall be actually moving their families and effects into this colony, to reside therein.

Forfeitures appropriated.

XI. *And be it further enacted,* That the several forfeitures, which shall or may arise by virtue of this act, in respect of the duty on horses, shall be divided into two equal parts; one moiety thereof shall be to our sovereign lord the king, his heirs and successors, for and towards the better support of this government, and the contingent charges thereof; and the other moiety to him or them that will inform, and prosecute for the same: To be recovered, with costs, by action of debt, or information, in any court of record within this co-

lony; wherein no essoin, protection, or wager of law, or more than one imparlance, shall be allowed.

XII. *And be it further enacted, That this act shall* Continuance of the act.
continue and be in force, from the time of the commencement thereof, 'til the end of the next session of Assembly; and no longer.

CHAP. XIII.

An Act, to prevent Lawyers exacting or receiving exorbitant fees.

I. **F**OR preventing lawyers taking unreasonable and exorbitant fees, and for the more equal settlement of the same, *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same;* That from and after the passing of this act, the lawyers in this colony, shall not exact, take, or receive, directly or indirectly, any greater or other fees or rewards, for the following services, than what are herein particularly mentioned and expressed: That is to say, lawyers practising in the General Court, may demand and receive, for an opinion, or advice, where no suit is brought, one pound, one shilling and six pence: In any suit at common law, other than the actions herein after mentioned, two pounds ten shillings: In all Chancery suits, or real, mixt, or personal actions, where the titles or bounds of land come in question, five pounds. And lawyers practising in the county courts, may demand and receive, for an opinion, or advice, where no suit is brought, ten shillings; In any suit at common law, other than the actions herein after mentioned, or by petition, fifteen shillings: In all Chancery suits, or real, mixt, or personal actions, where the titles or bounds of land come in question, one pound, ten shillings: On a petition for a small debt, seven shillings and six pence: To any lawyer attending a survey in the country, for every day he shall attend, twenty shillings. And every lawyer exacting, taking, receiving, or demanding, any greater fee, or other reward, for any of the above services, shall forfeit and pay fifty pounds, for every offence; one half to our sovereign lord the king, his heirs and successors, Lawyers not to demand greater fees than what are herein mentioned under a penalty.

for and towards the better support of this government, and the contingent charges thereof; and the other half to the informer: To be recovered by action of debt, or information, in any court of record, in this colony.

And to be
sworn.

II. *And be it further enacted, by the authority aforesaid,* That no person or persons, after the fifteenth day of October next, shall practise as an attorney in the General court, or any inferior court, within this colony, until he shall first, before such court where he shall be admitted to practise, have taken the following oath: "You shall not, directly or indirectly exact, demand, or receive, any greater or larger fee or reward, or other gratuity whatsoever, for the services by you to be done, as an attorney of this court, than you are permitted to take, by a certain act of Assembly, intituled, *an act, to prevent lawyers exacting or receiving exorbitant fees*, during the continuance of the said act: So help you God."— And if any attorney, after the said fifteenth day of October, shall prosecute or defend any action or suit whatsoever, in the General court, or any inferior court, within this colony, before he shall have taken the said oath, he shall forfeit and pay the sum of five hundred pounds current money; one moiety to his majesty, his heirs and successors, for and towards the better support of this government, and the contingent charges thereof; the other moiety to the informer: To be recovered, with costs, in any court of record, within this colony, by action of debt, or information.

Continuance
of the act.

III. *And be it further enacted,* That this act shall continue, and be in force, one year, from the passing thereof, and from thence to the end of the next session of Assembly; and no longer.

CHAP. XIV.

An Act for raising a Public Levy.

Four pounds and a half of tobacco to be paid by every tithable, being the public levy,

I. **B**E it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That four pounds and a half of tobacco, be paid by every tithable person, within this dominion, for the defraying and payment of the public charge of the coun-

try; being the public levy, from the two and twentieth day of May, one thousand seven hundred and forty, to the sixth day of May, one thousand seven hundred and forty two: And that it be paid by the collectors of the several counties, to the several persons and counties, respectively: to whom it is proportioned by this General Assembly. And if it shall happen, that there shall be more tithables in any county, than the present levy is laid on, then such county shall have credit for so much, to the use of the county: And if fewer tithables, in any county, then such county shall bear the loss.

II. *Provided always*, That where any allowance is made in the book of proportions, to any county to be paid in the same county no more per poll shall be collected from the tithables of such county, than will discharge the ballance, after such allowance shall be deducted: And that every county court shall regulate the levy accordingly. Proviso.

III. *And be it further enacted, by the authority aforesaid*, That the sherif of every county, shall, at the time of giving bond for the due collection and payment of the next county levy; also give bond and security for the due collection and payment of the public levy, now laid and assessed. Sheriff to give bond for the collection.

CHAP. XV.

An Act, for the relief of those persons, who were sufferers in the loss of the records of the county of Nansemond, whose cases have not already been provided for.

I. **WHEREAS**, it was enacted, by one clause of the act, made in the twelfth year of his majesty's reign, *for the relief of certain persons, who were sufferers in the loss of the records of the county of Nansemond*; that to the end, other persons, who had not been able to produce witnesses, before the commissioners appointed, by a commission issued under the great seal of the colony; pursuant to the act of Assembly, made in the eighth year of his majesty's reign. intituled, *an act for the relief of such persons as have* Further relief to sufferers by loss of records in Nansemond.

suffered or may suffer, by the loss of the records of Nansemond county, lately consumed by fire, in relation to their deeds, and other evidences, which may have been lost among the records of the said county, one other or more commissions should, and might be issued, and continued by the governor and commander in chief, of this colony, for the time being, for examining other witnesses, and perpetuating the testimony thereof, in relation to all deeds, wills, inventories, or other writings, recorded in the said county court, where the original has been lost, pursuant to the last mentioned act of Assembly, to be executed and returned, as in the said act is directed: And whereas, pursuant thereto, a commission hath issued, under the great seal of the colony, bearing date the twenty third day of December, in the twelfth year of his said majesty's reign, to William Wright, and seventeen others directed, who made a return of the said commission; but it does not appear that they have taken any depositions pursuant thereto. And to the end, that those persons, who have not yet been able to produce witnesses before the said commissioners, in relation to their deeds, and other evidences, which have been lost among the records of the said county, may be relieved,

II. Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That one other or more commissions shall, and may be issued, and continued, by the governor and commander in chief of this colony, for the time being, for examining other witnesses, and perpetuating the testimony thereof, in relation to all deeds, wills, inventories, or other writings, recorded in the said county court, where the original hath been lost, pursuant to the act of Assembly, made in the eighth year of his majesty's reign; to be executed and returned, as in the said act is directed.

CHAP. XVI.

An Act, for dividing the county of King and Queen; and adding the upper part thereof to the county of Caroline.

I. **F**OR the greater ease and encouragement of the upper inhabitants of the county of King and Queen; who live at a great distance from the court-house of that county, and very convenient to the court-house of the county of Caroline; and for the better regulation of the said counties: *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That from and after the first day of December now next ensuing, the said county of King and Queen, be divided, by a line to be run from the upper part of the land of William Wood, on the edge of Essex county, to the upper part of Captain Richard Tunstal's land, on Morocosick creek.— And that all that part of the said county of King and Queen, below the said creek, be one distinct county, and retain the name of King and Queen county. And all that other part thereof, above the said line, be thereafter annexed, and made part of the county of Caroline, aforesaid.*

King and
Queen divi-
ded.

Part added
to Caroline.

II. *Provided always, That nothing herein contained, shall be construed to hinder the sheriff, or collector of the said county of King and Queen, as the same now stands intire, and undivided, to make distress for any levies, fees, or other dues, which shall be due from the inhabitants above the said line, after the said first day of December, as by law he might have done, if this act had never been made: Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.*

CHAP. XVII.

An Act, to empower the justices of Elizabeth-City, county, to erect Pounds; and for other purposes therein mentioned.

I. **W**HEREAS it hath been represented to this Assembly, that the lands in the county of Elizabeth City, consist chiefly in pasture, and the inhabitants of that county are often deprived of the benefit thereof, for their stocks, by ill designing people, who pull down their fences, lay open their pastures, and corn-fields, and turn in their horses and cattle, in the night:

Pounds may
be erected
in Elizabeth
City.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same,* That the justices of the county of Elizabeth City, shall have full power and authority, to erect and keep in repair, or cause to be erected and kept in repair, one or more pound or pounds overt, at some convenient place or places, at or near the town of Southampton, for impounding all horses, cattle, sheep, goats, and hogs, that shall be taken up in any pastures or corn-fields, lawfully fenced, or in any other lawful inclosures within the said county of Elizabeth City:— And to appoint keepers of such pound or pounds, so to be erected, and to settle their fees, and the rates for impounding, keeping, and maintaining the beasts impounded, under such regulations as to them, from time to time, shall seem proper.

III. *And be it further enacted, by the authority aforesaid,* That after the pound or pounds aforesaid, shall be erected, it shall and may be lawful for the inhabitants of the said county of Elizabeth City, to take up and secure any horses, cattle, sheep, goats, or hogs, which shall break into, or be found within their pastures, corn-fields, lawfully fenced; or other lawful inclosures, in the said county: And upon complaint made by the party injured, before any justice of the peace for that county, the said justice is hereby required to issue his order, to three honest freeholders of the neighbourhood, no ways related to the party injured, nor interested concerning the trespass, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and to enquire in-

to and value the damages, and the beast or beasts committing the same; and to make report thereof to him: And if it shall thereby appear, that the fence or inclosure was lawful, the justice shall direct such beast or beasts to be impounded, 'til the owner or owners shall satisfy to the party injured, his damages sustained, and valued as aforesaid; and shall pay the pound fees. And if the owner or owners of any beast or beasts, so impounded, shall neglect or refuse to pay the damages, and pound fees, it shall and may be lawful to and for the keeper of the pound, and he is hereby required, as soon as the damages, together with the pound fees, shall amount to the appraised value, to make public sale of such beast or beasts, to the highest bidder, after giving at least three days notice of the time and place of the sale, at every church and chapel in the county, on a Sunday; and to apply the money arising from the sale, for and in discharge of the pound fees, and afterwards for and towards satisfying the party injured, his or her damages; and the residue, if any, shall be restored to the owner.

IV. *Provided always*, That if the owner or owners shall, at any time before the sale, give bond, with one or more sufficient security or securities, to the keeper of the pound, for the payment of the damages, and pound fees, within three months after the date thereof, his, her, or their beast or beasts shall be restored.

V. *And be it further enacted, by the authority aforesaid*, That this act shall continue and be in force, two years, and no longer.

CHAP. XVIII.

An Act, for laying a tax on the inhabitants of Augusta county; and appropriating the money thereby arising, to their use.

I. **W**HEREAS, by the act of Assembly, made in the twelfth year of his present majesty's reign, for Preamble.
erecting two new counties and parishes; and granting certain encouragements to the inhabitants thereof, the inhabitants of the new counties called Frederick and Augusta, which still remain part of the county of Orange, are exempted from the payment of all public levies

for ten years, from the passing of the said act; and no allowance is to be made to any person, for killing wolves, within the limits of the said two new counties. And whereas the inhabitants of Augusta county, have made humble suit to this Assembly, to have a tax of two shillings a year, levied on every tithable person in that county, to be received by certain trustees, and applied in hiring persons to destroy wolves, and for other public uses:

Certain taxes laid, in the county of Augusta, for specified objects.

II. *Be it therefore enacted, by the Lieutenant Governor, or, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the county court of Orange, shall yearly divide the said county of Augusta, into precincts; and appoint proper persons to take the lists of tithables therein: And the masters and mistresses of families, or, in case of their absence or non-residence, his or her overseer, shall give in lists of their tithables, in such manner, and according to such rules, and under such penalties and forfeitures, as are mentioned, appointed, and inflicted, by the laws now in force, concerning tithables. And that two shillings yearly, during the residue of the said ten years, be paid by every tithable person within the said county of Augusta, to James Patton, John Christian, and John Buchanan, or such persons as shall be by them appointed to receive the same; and for whom they shall be answerable. And that in case any person or persons, from whom the said tax shall be due and owing, shall neglect or refuse to pay the same, it shall and may be lawful, to and for the said James Patton, John Christian, and John Buchanan, or the persons by them appointed, after the tenth day of April, in every year, to levy the said tax, by distress and sale, of the delinquent's goods, in the same manner as for non-payment of the public and county levies, in this colony.

III. *And be it further enacted, by the authority aforesaid,* That the said James Patton, John Christian, and John Buchanan, shall lay out and apply the money received as aforesaid, in hiring persons to kill and destroy the wolves, and relieving the poor, in that county, and towards building bridges, and clearing roads, for the common use and benefit of the inhabitants thereof, in such manner, and proportions, as shall be directed and appointed by the court martial, to be held for

the said county, in the month of September, in every year, at such place as shall be appointed by the chief commanding officer present at the general muster; and shall then account to the said court, for all monies by them received and paid, as aforesaid, without any fee or reward, for any of the before mentioned services: And that in case of the death, or refusal to act, of any or either of the said James Patton, John Christian, or John Buchanan, or their successors, the said court martial shall appoint such other person or persons as they shall think fit, in the room of him or them so dying or refusing to act, to collect the said tax; Which person or persons so appointed, shall, in all respects, have the same powers and authorities, as are granted by this act to the said James Patton, John Christian, and John Buchanan.

IV. *Provided always*, That if the governor, with the advice and consent of the council, for the time being, shall, before the expiration of the said ten years, think fit to erect a court, for the said county of Augusta; that then, and as soon as the said court shall be erected, this act shall cease, and be determined.

CHAP. XIX.

An Act, for appointing several new ferries; and altering the name of a former ferry; and other purposes therein mentioned.

I. **B**E it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That public ferries be constantly kept, at the places herein after named: And that the rates for passing the said ferries, be as follows: To wit, on Potomack river, from the land of Ebenezer Floyd, in the county of Fairfax, across the river, to Powell's landing, in Maryland; the price for a man, six pence, and for a horse six pence. On Rappahanock river, from the land of William Thornton, gentleman, in the county of King George, across the river, to the wharf at the public lot, in the town of Fredericksburg, in the county of Spotsylvania; the price for a man, three pence, and for a horse, three pence. On Pamunkey, from the

New ferries
appointed
and their
rates settled.

land of Richard Littlepage, across the river, to the land of Thomas Clayborne, now in the tenure of the reverend Daniel Taylor; the price for a man, six pence, for a horse, six pence. On James river, from Mulberry-Island point, in the county of Warwick, across the river, to Cockett's, in the county of Isle of Wight; and from Cockett's to Mulberry-Island Point, aforesaid; the price for a man, one shilling and three pence, for a horse, one shilling and three pence. From a gut on the land of Richard Moseby, on the south side of the river, in Goochland county, across the river, on the land of Mr. Tarlton Flemming, opposite to the said Moseby's landing; the price for a man, three pence, and for a horse, three pence. From the land of Tucker Woodson, in the county of Goochland, across the river, to the land of Paul Micheaux, near the courthouse, the price for a man, three pence, and for a horse, three pence. From the land of Bennit Goode, across the river, to the land of Colonel John Flemming, in Goochland county; the price for a man, three pence, and for a horse, three pence. And, on Fluvanna river, from the land of James Fenly, across the river, to the land of William Cabell; the price for a man, three pence, and for a horse, three pence.

For carriages.

II. And the courts of the several counties wherein such ferries shall be kept, shall have power to appoint proper boats to be kept at the said ferries, for the convenient transportation of coaches, waggons and other wheel carriages: That when any such boats shall be so provided and kept, it shall and may be lawful for the keepers of such ferries, to demand and take, for the ferriage of such wheel carriages, the following rates, to wit, for every coach, chariot, or waggon, and the driver thereof, the same as for the carriage of six horses: And for every cart, or four wheel chaise, and the driver of such chaise, the same as for the ferriage of four horses: And for every two wheel chaise, or chair, the same as for the ferriage of two horses, according to the rates herein before settled, at such ferries respectively, and no more. And that the licenses for keeping the said ferries, shall be obtained in the same manner, and the keepers thereof have such exemptions and advantages, and be under the like regulations and restrictions, as is and are by law provi-

Licenses.

ded, for and in respect of the keepers of public ferries, heretofore settled and appointed.

III. *And be it further enacted, by the authority aforesaid,* That from and after the passing of this act, the name of the public ferry over Chickahomony river, from Goodall's to Williams's or Drummond's neck, be altered: And that the said ferry be appointed from Goodall's to Hamner's point, or Williams's, at the rates already settled by law. And where any ferry now is, or shall hereafter be appointed, by act of the General Assembly, on one side of the river only; it shall and may be lawful, for the court of the county on the other side, to appoint an opposite ferry; and to order and allow the prices directed by such act.

County
courts may
appoint op-
posite ferries.

CHAP. XX.

An Act, for establishing the Town of Richmond, in the county of Henrico; and allowing fairs to be kept therein.

I. **F**ORASMUCH as it hath been represented to this Preamble.
Assembly, that the honourable William Byrd, Esquire, hath lately laid out a parcel of his lands, at the falls of James river, in the county of Henrico, in lots, and streets, for a town, by the name of Richmond, and made sale of most of the said lots, to divers persons, who have since settled and built thereon, and that the said William Byrd intends speedily to lay out other part of his adjacent lands, into lots, and streets, to be added to and made part of the said town; and is willing that part of his lands, situate between the said town, and Shoccoe's creek, and the river, shall remain and be, as and for a common, for the use of the inhabitants of the said town, for ever. And also, that the said town lies very convenient for trade and navigation, being at the uppermost landing upon the river, where the public warehouses are built: But, because the same was not laid out and erected into a town, by act of Assembly, the freeholders and inhabitants thereof will not be entitled to the like privileges enjoyed by the freeholders and inhabitants of other towns in this colony:

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the said piece or parcel of land, lately belonging, or now belonging, to the said William Byrd, esquire; lying and being at the falls of James river, on the north side of the said river, in the county of Henrico aforesaid, be and is hereby constituted, appointed, erected, and established, a town, in the manner it is already laid out, or shall be laid out, by the said William Byrd, in lots, and streets, to be called by and retain the name of Richmond: And that the freeholders of the said town, shall, forever hereafter, enjoy the same rights and privileges, which the freeholders of other towns erected by act of Assembly, in this colony, have and enjoy. And that the said William Byrd, and his heirs, stand seized in fee-simple, of the lands lying and being between the present southern bounds of the said town, and the river, bounded to the eastward by a line, to be run a strait course, from the present extreme bounds of the said town to strike the river; and on the westward, by a line, to be run from the end of the present westward street, beyond the lot numbered [1] a straight course, to strike Shoccoe's creek, thence down the said creek to the River, and then by the river: to remain and be, as and for a common, for the use and benefit of the inhabitants of the said town, for ever.

Richmond
established.

Commons.

Fairs.

III. And whereas allowing fairs to be kept in the said town of Richmond, will be very commodious to the inhabitants of that part of this colony, *Be it further enacted, by the authority aforesaid,* For the future, two fairs shall and may be annually kept and held, in the said town of Richmond, on the second Thursday in May, and the second Thursday in November, in every year; each to continue for the space of two days, for the sale and vending of all manner of cattle, victuals, provisions, Goods, wares and merchandises whatsoever: On which fair days, and on two days next before, and two days next after each of the said fairs, all persons coming to, being at, or going from the same, together with their cattle, goods, wares, and merchandizes, shall be exempt and privileged from all arrests, attachments, and executions, whatsoever, except for capital offences, breaches of the peace, or for any controversies, suits, and quarrels, that may arise and hap-

pen, during the said time; in which cases process may be immediately issued, and proceedings thereupon had, in the same manner as if this act had never been made: Any thing herein before contained, or any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

IV. *Provided always*, That nothing herein contained, shall be construed, deemed, or taken, to derogate from, alter, or infringe the roial power and prerogative, of his majesty, his heirs, or successors, of granting to any person or persons, body corporate or politick, the privilege of holding fairs or markets, in such manner, as he or they, by his or their roial letters patent, or by his or their instructions to the governor, or commander in chief, of this dominion, for the time being, shall think fit.

V. *And be it further enacted, by the authority aforesaid*, That this act, as to so much thereof as relates to holding fairs in the said town of Richmond, shall continue and be in force four years, from the passing thereof, and from thence to the end of the next session of assembly; and no longer.

CHAP. XXI.

An Act, for erecting a town at Bray's church, in the county of King George.

I, **F**ORASMUCH as it hath been represented unto Preamble this General Assembly, that great numbers of people, have, of late, settled themselves at, and near a place, called Bray's church, on the north side of Rappahanock river, in the county of King George, where the church and public warehouses are built; which place is healthful, commodious, and convenient, for traders to cohabit in, and to bring their goods to: And that in case a town was laid out there, trade and navigation would be greatly encouraged and increased:

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly,* Leeds established. *and it is hereby enacted, by the authority of the same,* That within six months after the passing of this act, sixty five acres of land, lying and being at the place aforesaid, shall be surveiied, and laid out, by the survei-

or of the said county of King George, to include the church and warehouses aforesaid; and shall be vested in Thomas Lee, Esquire, Charles Carter, Thomas Turner, Daniel M'Carty, Harry Turner, Maximilian Robinson, and Nicholas Smith, gentlemen, and their successors, in trust, for the several purposes herein after mentioned. And the said Thomas Lee, Esquire, Charles Carter, Thomas Turner, Daniel M'Carty, Harry Turner, Maximilian Robinson, and Nicholas Smith, gentlemen are hereby constituted directors and trustees, for designing, building, carrying on, and maintaining a town, on the said land; and they, or any four of them, shall have power to meet, as often as they shall think necessary; and shall lay out the said sixty five acres of land, in lots, and streets, not exceeding half an acre in each lot; and also to set apart such land for the church and church-yard, at the place where it is now built, and for a market place, and public quay, and to appoint such places upon the river, for public landings, as they shall think most convenient; and, if the same shall be necessary, shall direct the making of wharfs and cranes, at such public landings, for the public use. And when the said town shall be so laid out, the said directors and trustees shall have full power and authority to sell the said lots, by public sale or auction, from time to time, to the highest bidder; so as no person shall have more than two lots: And when such lots shall be sold, any two of the trustees shall and may, upon payment of the purchase money, by some sufficient conveyance or conveyances, convey the fee simple estate of such lot or lots, to the purchaser or purchasers; and he or they, or his or their heirs or assigns, respectively, shall and may thereafter peaceably and quietly have, hold, possess and enjoy the same, freed and discharged of and from all the right, title, estate, claim, interest, and demand, whatsoever, which any person or persons now hath, or shall have, within six months after the making of this act, and his, her, or their heirs and assigns, respectively, and of all other persons whatsoever, claiming under him, her, or them.

III. *And be it further enacted, by the authority aforesaid, That the grantee or grantees of such lot or lots, so to be conveyed and sold, in the said town, shall, within two years after the date of the conveyance*

for the same, erect, build, and finish, on each lot so conveyed, one house, of brick, stone, or wood, well framed, of the dimensions of twenty foot square, and nine foot pitched at the least; or proportionable thereto, if such grantee shall have two lots contiguous; every chimney in the said town to be built of brick or stone. And the said directors shall have full power and authority to establish such rules and orders for the more regular placing the said houses, as to them shall seem fit, from time to time. And if the owner of any lot, shall fail to pursue and comply with the directions herein prescribed, for the building and finishing one or more house or houses thereon, then such lot upon which such house shall not be so built, and finished, shall be re-vested in the said trustees; and shall and may be sold and conveyed to any other person or persons whatsoever, in the manner before directed; and shall re-vest and be again sold, as often as the owner or owners shall fail to perform, obey, and fulfil the directions aforesaid. And if the inhabitants of the said town, shall fail to obey and pursue the rules and orders of the said directors, in repairing and amending the streets, landings, and public wharfs, they shall be liable to the same penalties as are inflicted for not repairing the highways in this colony.

IV. And, for continuing the succession of the said trustees and directors, until the same shall be incorporated, *Be it further enacted*, That in case of the death of any of the said directors, or of their refusal to act, the surviving, or other directors, or the major part of them, shall assemble, and are hereby empowered, from time to time, by instrument in writing, under their respective hands and seals, to nominate some other person or persons, being an inhabitant or freeholder of the said town, in the place of him so dying or refusing; which new director or directors, so nominated and appointed, shall from thenceforth, have the like power and authority, in all things relating to the matters herein contained, as if he or they had been expressly named and appointed in and by this act. And every such instrument, and nomination, shall, from time to time, be entered and registred in the books of the said directors.

V. And whereas the said sixty five acres of land, do belong to Elias Yates, Daniel White, Jonathan Syden-

ham, Clapham Richardson, Mary Fishpool, and Anne Edmonds, *Be it enacted, by the authority aforesaid,* That the said trustees and directors shall pay, or cause to be paid, unto the said Elias Yates, Daniel White, Jonathan Sydenham, Clapham Richardson, Mary Fishpool, and Anne Edmonds, out of the money raised by the sale of the said lots, as soon as the same shall be by them received, after the rate of five pounds, for every acre of the said sixty five acres of land, according to the right of the said proprietors, respectively. And the said trustees and directors shall moreover, lay out and assign unto the said Elias Yates two lots; unto the said Jonathan Sydenham two lots, to include his dwelling house and improvements; unto the said Clapham Richardson six lots, to include the dwelling house and improvements, which William Annadale now holds by lease under the said Clapham; unto the said Mary Fishpool, four lots, to include her dwelling house and improvements; and unto the said Anne Edmonds, one lot, to include the public warehouses. And they shall respectively, remain seised of such lots, of the same estate whereof they are now seised. *Provided always,* That nothing herein contained, shall be construed, deemed, or taken, to entitle the proprietors to receive any money for the lots of land reserved to them by this act.

VI. *And be it further enacted, by the authority aforesaid,* That after the said lots shall be so laid out and disposed of, as aforesaid, the said directors, or any four of them, shall have full power and authority, to apply all the overplus money, which shall be raised by the sale of the said lots, for such public use, for the common benefit of the inhabitants of the said town, as to them shall seem best.

VII. *Provided,* That if the said trustees and directors shall not, within twelve months after the said sixty-five acres of land shall be surveyed and laid out, in the place before mentioned, fully satisfy and pay, or in case of refusal, tender to the proprietor or proprietors of the said sixty five acres of land, the money directed to be paid to him, her, or them, respectively, the said land shall be revested in the said proprietor or proprietors, respectively; and he, she, or they, shall remain and continue seised thereof, as if this act had never been made.

VIII. *And be it further enacted, by the authority* ^{Name of the} *aforsaid,* That the said town shall be called by the ^{town.} name of Leeds. And this act shall be adjudged, held, and taken to be a public act.

CHAP. XXII.

An Act, to vest certain lands therein mentioned, in the Feoffees and Trustees of the Town of Fredericksburg, and those persons who have purchased under them.

I. **W**HEREAS, by an act of the General Assembly; ^{Preamble.} made in the first year of his present majesty's reign, intituled, *an act for erecting a town in each of the counties of Spotsylvania and King George, fifty acres of land, parcel of a tract belonging to John Royston, and Robert Buckner, of the county of Gloucester, lying on the south side of the river Rappahanock, in the county of Spotsylvania, were directed to be survei- ed and laid out, taking in the whole breadth of the said tract of land, upon the river, by the surveior of the said county, for a town, to be called by the name of Fredericksburg; and were vested in certain trustees therein named, to be laid out in lots and streets, and sold; and for other purposes therein mentioned: And the said trustees were to pay the said John Royston, and Robert Buckner, out of the money arising from the sale, after the rate of forty shillings for every acre of the said fifty acres of land: And all the over- plus money, which should be raised by the sale, was to be applied to public uses, for the benefit of the inhab- itants of the said town.*

II. And whereas, after the passing of the said act, George Home, then surveior of the said county of Spotsylvania, did survey and lay out fifty acres of land, for the said town of Fredericksburg, and divided the same into lots and streets, and return a plan thereof to the trustees, who made sale of the said lots, accord- ing to the said plan: But the original bounds not be- ing kept up, and purchasers building very irregularly, the said trustees did, on the eighteenth day of March, one thousand seven hundred and thirty nine, cause the

bounds of the said town to be re-surveyed by William Waller, the present surveyor of the said county; by which survey, it appears that the bounds of the said town, as the same were laid out by the said Home, contain fifty acres and one third of an acre of land, and include two hundred and forty three square poles of land, lately belonging to Henry Willis, of the said county of Spotsylvania, gentleman, deceased, at the lower end of the town, and two hundred and twenty square poles, of the land of John Lewis, gentleman, formerly belonging to Mr. Francis Thornton, of King George county, at the upper end of the town, which have been laid out into lots and streets, and sold by the said trustees, by a mistake, the bounds of the lands of the said Henry Willis, and Francis Thornton, not being truly known, when the bounds of the town were first laid out, their lands were included, as aforesaid, instead of so much of the lands of the said Royston and Buckner, at the back part of the town; which mistake was not discovered till the re-survey.

III. And whereas the said Henry Willis, in his lifetime, did purchase of the said Robert Buckner, his part of the tract aforesaid, parcel whereof adjoining to the town, hath been lately laid out into lots and streets, and sold at a very considerable value. And whereas, it will be a manifest prejudice to the purchasers of the said lots claimed by the said John Lewis, and the executors of the said Henry Willis, (to whom his lands are devised for payment of his debts,) to have their lots taken from them after they have built and made improvements thereon; and many law suits are likely to arise between the said John Lewis, the said executors, the purchasers, and the trustees of the said town, concerning the same; which must be attended with great expence: To prevent which, the said trustees are willing to pay the said John Lewis, and the executors of the said Henry Willis, a reasonable consideration for the lands included, by mistake, as aforesaid.—Therefore, for removing all doubts and controversies,

IV. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same, That the bounds of the said town of Fredericksburg, as the same were laid out by William Waller, surveyor of the said county, the eighteenth day of March, one*

Boundaries
of Fredericksburg es-
tablished.

thousand seven hundred and thirty nine, be established and held firm and stable, for ever: And that all the lands lately belonging to Henry Willis, gentleman, deceased, and the lands which the said John Lewis purchased of Francis Thornton, included within the said bounds, as aforesaid, shall for ever hereafter, be construed, deemed, and taken, to be part and parcel of the said town of Fredericksburg: and shall be vested in the feoffees and trustees of the said town, and those persons who have purchased under them, in fee simple accordingly, in as full and ample manner, to all intents and purposes, as if the same had been vested in the said trustees, by the before mentioned act.

V. *Provided always*, That the said trustees do, and shall, before the twenty-fifth day of December next, pay, or cause to be paid, to the executors of the said Henry Willis, deceased, five pounds; and to the said John Lewis, his Executors or administrators, the sum of fifteen pounds; which is hereby declared to be in full satisfaction for all right or title which they the said Henry Willis, deceased, in his life-time had, or which his executors the said John Lewis, or Francis Thornton, every, or any of them, may have, or pretend to claim, in or to the said premises, or any part thereof.

CHAP. XXIII.

An Act, for erecting a town at Constance's warehouse, in the county of Nansemond.

I. **F**ORASMUCH, as it hath been represented unto this General Assembly, that great numbers of people have lately settled themselves at and near a place called Constance's warehouse, on the east side of Nansemond river, in the county of Nansemond, where the public warehouses are built; which place is healthful, commodious, and convenient, for traders to cohabit in, and bring their goods to: And that in case a town was laid out there, trade and Navigation would be greatly encouraged and increased: Preamble.

II. *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That* Suffolk established.

within eight months after the passing of this act, fifty acres of land, parcel of a tract of land, belonging to Jethro Sumner, of the said county, gentleman, lying and being at the place aforesaid, be laid out, from the river, between two creeks or guts, one below the warehouse, and the other above, by the surveyor of the said county of Nansemond, to include the warehouses aforesaid; and shall be vested in Lemuel Reddick, William Baker, William Wright, Edward Wright, John Gregory, Mills Reddick, and Edward Norfleet, gentlemen, and their successors, in trust, for the several purposes hereinafter mentioned. And the said Lemuel Reddick, William Baker, William Wright, Edward Wright, John Gregory, Mills Reddick, and Edward Norfleet, gentlemen, are hereby constituted directors and trustees, for designing, building, carrying on, and maintaining a town on the said land: And they, or any four of them, shall have power to meet, as often as they shall think necessary; and shall lay out the said fifty acres of land into lots and streets, not exceeding half an acre in each lot; and also to set apart such land for a market place and public quay, and to appoint such places upon the river, for public landings, as they shall think most convenient: And if the same shall be necessary, shall direct the making of wharfs and cranes at such public landing, for the public use. And when the said town shall be so laid out, the said directors and trustees shall have full power and authority to sell the said lots, by public sale, or auction, from time to time, to the highest bidder: And when such lots shall be sold, any two of the trustees shall and may, upon payment of the purchase money, by some sufficient conveyance or conveyances, convey the fee simple estate of such lot or lots to the purchaser or purchasers; and he or they, or his or their heirs or assigns, respectively, shall and may thereafter peaceably and quietly have, hold, possess and enjoy the same, freed and discharged of and from all the right, title, estate, claim, interest, and demand whatsoever, of the said Jethro Sumner, his heirs and assigns, and of all other persons whatsoever, claiming under him or them.

III. *And be it further enacted, by the authority aforesaid,* That the grantee or grantees of such lot or lots, so to be conveyed and sold, in the said town, shall, within two years after the date of the conveyance for

thesame, erect, build, and finish, on each lot so conveyed, one house, of brick, stone or of wood, well framed, of the dimensions of twenty feet long, sixteen feet wide, and eight feet pitch, at the least; or proportionable thereto, if such grantee shall have two lots contiguous. And the said directors shall have full power and authority to establish such rules and orders, for the more regular placing the said houses, as to them shall seem fit, from time to time. And if the owner of any lot, shall fail to pursue and comply with the directions herein prescribed, for the building and finishing one or more house or houses thereon, then such lot upon which such house shall not be so built, and finished, shall be re-vested in the said trustees; and shall and may be sold and conveyed to any person or persons whatsoever, in the manner before directed; and shall re-vest and be again sold, as often as the owner or owners shall fail to perform, obey, and fulfil the directions aforesaid. And if the inhabitants of the said town, shall fail to obey and pursue the rules and orders of the said directors, in repairing and amending the streets, landings, and public wharfs, they shall be liable to the same penalties as are inflicted for not repairing the highways, in this colony.

IV. And, for continuing the succession of the said trustees and directors, until the said town shall be incorporated, *Be it further enacted*, That in case of the death of any of the said directors, or their refusal to act, the surviving, or other directors, or the major part of them, shall assemble, and are hereby impowered, from time to time, by instrument in writing, under their respective hands and seals, to nominate some other person or persons, being an inhabitant or freeholder of the said town, in the place of him so dying or refusing; which new director or directors, so nominated and appointed, shall from thenceforth have the like power and authority, in all things relating to the matters herein contained, as if he or they had been expressly named and appointed in and by this act. And every such instrument, and nomination, shall, from time to time, be entered and registred in the books of the said directors.

V. *And be it further enacted, by the authority aforesaid*, That the said trustees and directors shall sa-

Name of
the town

tisfy and pay unto the said Jethro Sumner, out of the money arising by the sale of the said lots, three pounds for every acre of the said fifty acres of land vested in them, except the lots hereafter mentioned, to be laid off for the use of the said Sumner; and moreover, shall assign unto him four lots, to include the public warehouses, and so many other lots as will include his houses now built on the said fifty acres of land; whereof he shall remain seised of the same estate, as he now hath therein. And the said town shall be called by the name of Suffolk.

VI. *Provided neverth'less*, That if the said directors shall not, within twelve months after the said fifty acres of land shall be surveyed and laid out at the place aforesaid, fully satisfy, and pay, or in case of refusal to receive the same, tender to the proprietor of the said fifty acres of land, the money by this act directed to be paid to him, the lands and premises before-mentioned, shall be re-vested in the said proprietor; and he shall remain and continue seised thereof, as if this act had never been made.

VII. *And be it further enacted, by the authority aforesaid*, That after the said lots shall be laid out, and disposed, as aforesaid, the said directors or any four of them, shall have full power and authority, to apply the overplus money, which shall be raised by the said lots, to such public use, for the common benefit of the inhabitants of the said town, as to them shall seem best. And this act shall be adjudged, held, and taken, to be a General Act.

CHAP. XXIV.

An Act, for continuing the Act intituled, an Act, for allowing Fairs to be kept in the town of Fredericksburg.

Act allow-
ing fairs to
be kept in
the town of
Fredericks-
burg, contin-
ued.

I. **W**HEREAS the act of Assembly, made in the twelfth year of his present majesty's reign, intituled, *an act, for allowing fairs to be kept in the town of Fredericksburg*; which hath been altered by one other act, made in the thirteenth year of his said majesty's reign, intituled, *an act for appointing sever-*

al new ferries; and for altering the days for holding fairs in the town of Fredericksburg; will expire at the end of this present session of Assembly: And the same hath been found, in a great measure to answer the ends proposed by the said act, in increasing the trade of the said town:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That the said act intituled, an act, for allowing fairs to be kept in the town of Fredericksburg; together with so much of the said other act, made in the thirteenth year of his said majesty's reign, as relates to the holding the fairs, shall continue and be in force, from and after the end of this present General Assembly, for and during the term of four years, and from thence to the end of the next session of Assembly.*

CHAP. XXV.

An Act, for destroying Crows and Squirrels, on the Eastern Shore.

I. **W**HEREAS, crows and squirrels do great damage to the crops of corn on the Eastern Shore. For the preventing of the like damage hereafter,

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this act, every person dwelling on the Eastern-Shore, who is by law obliged to give a list of the tithables in his or her family, shall, annually, before the time appointed for returning such list to the county court, produce to the justice of peace, who shall be appointed to take lists of tithables in the precinct where such person shall dwell, four crows heads, or squirrels scalps, for every tithable by him or her listed that year: And every such justice shall forthwith cause such scalps and heads to be destroyed, to prevent their being produced a second time; and shall, in a distinct column, to be for that purpose made, in the said list, enter the number of such heads and scalps in a line, with the name of the*

Crows and squirrels, how destroyed on the eastern shore.

person producing the same. And the court of every county on the Eastern-Shore shall, annually, at the laying of the county levy, give the county credit in one article, for two pounds of tobacco, for every head or scalp, wanting to make up the full number required by this act. And the sheriff or collector of the said county is hereby impowered and required to demand and receive of the delinquents, or levy by distress, the said two pounds of tobacco, for each head or scalp so wanting, to make up the said number of four heads for every tithable, as aforesaid, on every person, respectively, who shall have failed to produce the same, according to the direction of this act: To be applied towards the discharge of the said county debt, in the manner herein directed.

IV. *And be it further enacted by the authority aforesaid, That this act shall continue and be in force four years, from the passing thereof, and from thence to the end of the next session of Assembly, and no longer.*

CHAP. XXVI.

An Act, for explaining the charter granted to the city of Williamsburg; and for enlarging the jurisdiction of the court of Hustings, within the said city.

Preamble.

I. **W**HEREAS, his late majesty king George the first, of blessed memory, by his roial charter, bearing date, under the seal of this colony, the twenty eighth day of July, in the eighth year of his reign, was graciously pleased to grant to the inhabitants of Williamsburg, that the same should be a city incorporate, consisting of a maior, recorder, six aldermen, and twelve common-council men: And was further pleased (among other things) to grant to the said maior, Recorder Aldermen, and common council of the said city, and to their successors, for ever; and to all freeholders of the said city, owning one whole lot of land, with an house built thereon, according to law; and to all persons actually residing and inhabiting within the said city, having a visible estate of fifty pounds current money, at the least; and to all persons who should serve five years to any trade within the

said city, and should, after the expiration of their time, be actually house-keepers and inhabitants of the said city, full power and authority to name, elect, and send one citizen, qualified, as therein is mentioned, to be present, sit, and vote, in the house of Burgesses of this colony. And was also pleased to grant, that the said maior, recorder, and aldermen, should hold a court of Hustings, once in every month, within the said city: the jurisdiction of which said court hath been enlarged by two acts of Assembly, made since the granting of the said charter; but the same is not yet extensive enough, for keeping order and good government within the said city: And some doubts and controversies having lately arisen, concerning the construction of the said charter, particularly with respect to the qualifications of persons, entitled by the said charter, to vote at the election of a citizen for the said city. For settling the said doubts and controversies, and enlarging the jurisdiction of the said court of Hustings,

II. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same; and the true intent and meaning of the said charter is hereby declared to be,* That no person shall vote at the election of a citizen for the said city, in right of any freehold, unless he has an estate of freehold in one whole lot of land within the said city; and that there be standing upon the said lot, a house of such dimensions as is required by law, for saving such lot, in tenantable repair, at the time of giving such vote. And where two or more are seised of any estate of freehold within the said city, as joint tenants, tenants in common or co-partners, no more than one vote shall be given, or allowed, in right of such freehold, and that only in case all the parties interested, can agree; otherwise no vote shall be allowed to be given, for any such freehold. And that no person shall be entitled to vote at such election, as an inhabitant or resident within the said city, unless he has actually resided there twelve months, next before the time of giving his vote. And that no person whatsoever, being a servant by indenture, covenant, or otherwise, shall be allowed to give any vote at such election, in right, or on account of his being an inhabitant or resident within the said city. And that no person shall be entitled to vote at such e-

Charter of
Williams-
burg ex-
plained.

lection, in right, or on account of his having served five years in the said city, unless he shall have actually served as an apprentice to some trade within the said city, for the term of five years, and shall have obtained a certificate thereof from the court of hustings within the said city, under the common seal of the city; and is also an inhabitant and house keeper within the said city, at the time of giving his vote.

III. *And be it further enacted*, That every person claiming a right to vote as a freeholder, before he is admitted to poll at the election of a citizen for the said city, shall, if required by any candidate, or other person entitled to vote at such election, take the following oath; or being one of the people called quakers, shall declare the effect of the same, upon his affirmation: That is to say, “You shall swear, that you have a
“sole estate of freehold, or estate of freehold in joint
“tenancy, tenancy in common, or co-partnery with
“
“in one whole lot of
“land, within the city of Williamsburg, and that there
“is a house now standing thereon, of such dimensions
“as is required by law, for saving the said lot, in ten-
“antable repair; and that the same hath not been
“granted to you fraudulently, on purpose to qualify
“you to give your vote at this election.” And every person claiming a right to vote, as resident and inhabitant within the said city, shall, if required, as aforesaid, take the following oath; or being a quaker, declare the effect of the same, upon his affirmation: That is to say, “You shall swear, that you are, and
“have been, for twelve months last past, a resident
“and inhabitant within the city of Williamsburg; and
“that you have a visible estate of the value of fifty
“pounds current money, at the least; and that the
“same, or any part thereof, hath not been given or
“conveied to you fraudulently, on purpose to qualify
“you to give your vote at this election.”

IV. *And be it further enacted and declared*, That no person shall be qualified to be elected one of the common council men of the said city, until he has actually resided there twelve months, at the least: And such residence shall be deemed a sufficient qualification, although he be no freeholder. And that the writ for electing a citizen for the said city, shall be directed to the maior of the said city, for the time being as has

been used heretofore: And the said maior is hereby declared to be the returning officer. And that the recorder of the said city, for the time being, shall, in his absence from the said city, have full power and authority to exercise the said office, by his sufficient deputy to be appointed by him, by writing, under his hand and seal, so as such deputy be approved by the court of the maior, aldermen, and common-council men of the said city, or the major part of them.

V. *And be it further enacted*, That the court of hustings within the said city, shall from henceforth have the sole power of granting licences to ordinary keepers within the said city: And that the courts of the counties of York, and James City, shall not exercise any jurisdiction in that matter, as hath been formerly done.

VI. *Provided always*, That such licences be granted, in the manner directed by one act of Assembly, made in the fourth year of the reign of her late majesty, queen Anne, intituled, *an act for regulating ordinaries, and restraint of tippling houses*. And the justices of the said court of Hustings shall have the same powers and authorities, both as to granting licences, and regulating and suppressing ordinaries, as the justices of any county court within this colony have or may exercise, by virtue of the same, or any other act of Assembly.

CHAP. XXVII.

An Act, for dividing the county of Prince William

I. **F**OR the greater ease and convenience of the inhabitants of the county of Prince William, in attending courts, and other public meetings, *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, That from and immediately after the first day of December now next ensuing, the said county of Prince William be divided into two counties: That is to say, all that part thereof, lying on the south side of Occoquan, and Bull Run; and from the head of the main branch of Bull Run, by a straight course to the Thorough-fare of the Blue

Prince William county divided.

Fairfax county formed.

Ridge of mountains, known by the name of Ashby's Gap, or Bent, shall be one distinct county, and retain the name of Prince William county: And be one distinct parish, and retain the name of Hamilton parish. And all that other part thereof, consisting of the parish of Truro, shall be one other distinct county, and called and known by the name of Fairfax county. And that, for the due administration of justice, after the said first day of December, a court for the said county of Prince William, be constantly held, by the justices thereof, upon the fourth Monday: And a court for the said county of Fairfax, be constantly held, by the justices of that county, upon the third Thursday in every month, in such manner, as by the laws of this colony is provided, and shall be by their commissions directed.

II. *Provided always*, That nothing herein contained, shall be construed to hinder the sheriff, or collector of the said county of Prince William, as the same now stands entire and undivided, to make distress for any levies, fees, or any dues, which shall be due from the said county of Fairfax, after the said first day of December, in such manner, and not otherwise, as by law he might have done if this act had never been made; any law, custom, or usage, to the contrary hereof, notwithstanding.

CHAP. XXVIII.

An Act, for dividing the county of Hanover; and erecting the upper part thereof, into a distinct county.

Hanover county divided.

I. **W**HEREAS, many inconveniences attend the upper inhabitants of the county of Hanover, by reason of their great distance from the court-house, and other places appointed for public meetings, *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgessess, of this present General Assembly, and it is hereby enacted, by the authority of the same.* That from and immediately after the first day of December next ensuing, all that tract of land now deemed to be part of the said county of Hanover, lying above a straight course to be run from the mouth of Little Rokey creek, on the river Northanna, south, twenty degrees west,

until it intersects the line of Goochland county, be divided from the said county of Hanover, and be made a distinct county, to be called by the name of Louisa county: And that the inhabitants thereof be exempt from any dependence on the said county of Hanover.— And for the due administration of justice in the said county of Louisa, after the same shall take place, Louisa county formed.

II. *Be it further enacted, by the authority aforesaid,* That after the said first day of December, a court for the said county of Louisa, be constantly held by the justices thereof, upon the second Monday in every month, in such manner as by the laws of this colony is provided, and shall be by their commissions directed.

III. *Provided always,* That nothing herein contained, shall be construed to hinder the sheriff, or collector of the said county of Hanover, as the same now stands entire and undivided, from collecting or making distress for any public dues, or officers fees, which shall remain unpaid by the inhabitants of the said county of Louisa, at the time of its taking place: But such sheriff, or collector shall have the same power to collect or distrain for the said dues and fees, and shall be answerable for them, in the same manner, as if this act had never been made; any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXIX.

An Act, for preventing the building wooden chimnies in the town of Fredericksburg, and pulling down such as are already built therein; and to restrain hogs from going at large in the towns of Fredericksburg and Urbanna.

I. **F**ORASMUCH, as it hath been represented to this Assembly, by the inhabitants of the town of Fredericksburg, in the county of Spotsylvania, that they are often in great and imminent danger of having their houses and effects burnt and consumed, by reason of many wooden chimnies in the said town, *Be it therefore enacted, by the Lieutenant Governor, Council and Burgesses of this present General Assembly, and it is* Fredericksburg, regulations as to wooden chimnies, and hogs therein.

hereby enacted, by the authority of the same, That it shall not hereafter be lawful for any person whatsoever, to erect or build, or cause to be erected or built in the said town, any wooden chimney; neither shall it be lawful for any person whatsoever, after the expiration of three years after the passing of this act, to make use of any wooden chimney already erected in the said town; And that the owners or proprietors of all such wooden chimnies as now are in the said town, shall before the expiration of the time aforesaid, wholly destroy and disuse the same, or cause them to be pulled down; otherwise it shall be lawful for the sheriff of the said county of Spotsylvania, and he is hereby required, to cause all such wooden chimnies to be pulled down and demolished. And in like manner it shall be lawful for the said sherifs, and they are hereby required, to cause to be pulled down and demolished, all other wooden chimnies which shall be built or erected in the said town, in breach of this act.

Urbanna,
hogs not to
run at large
therein.

II. And whereas, it is represented to this Assembly, that great numbers of hogs are raised, and suffered to go at large in the said town of Fredericksburg, and the town of Urbanna, to the great prejudice of the inhabitants thereof: *Be it further enacted by the authority aforesaid,* That from and after the passing of this act, it shall not be lawful for any person or persons, owners of any swine, to suffer the same to run or go at large within the limits of the said towns; and if any swine shall be found running or going at large within the said limits, it shall be lawful for any person whatsoever, to kill and destroy every such swine so running at large. *Provided always,* That such person shall not convert any such swine to his or her own use; but shall leave the same in the place where it shall be killed, and give immediate notice to the owner thereof, if known; and if not then such person shall immediately inform the next justice of the peace thereof, who may order the same to the use of any poor person or persons he shall think fit.

III. *Provided always,* That nothing herein contained, shall be construed, deemed, or taken, to forbid or hinder any person or persons from driving any swine to, or through the said towns, or the limits thereof, in order to sell the same; or in their removal from one plantation to another.

CHAP. XXX.

An Act for dividing the parish of Saint Martin, in the county of Hanover; and erecting the same into two distinct parishes,

I. **W**HEREAS, by reason of the large extent of the parish of Saint Martin, in the county of Hanover, the minister and inhabitants thereof, labour under great difficulties and inconveniences; For removal of which, for the future, *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the first day of December next, the said parish of Saint Martin, shall be divided, by a line to be run from the mouth of Glady's Creek, on the south side of the river Northanna, a course of south, twenty degrees west, 'till it intersects the line of Goochland county: And all that part of the said parish, situate below the said line, to the eastward thereof, be erected into one distinct parish, and retain the name of Saint Martin; and all that other part thereof, situate above the said line, to the westward thereof, be erected into one other distinct parish, and called by the name of Fredericksville.

Parishes in
Hanover, di-
vided.

St. Martin.

Fredericks-
ville.

II. *And be it further enacted, by the authority aforesaid,* That the present vestrymen of the said parish of Saint Martin, and that shall continue so to be until the division shall take place, shall be vestrymen of the said parishes of Saint Martin, and Fredericksville, wherein they shall dwell, respectively. And for completing the number of vestrymen in the said parishes of Saint Martin, and Fredericksville, the freeholders and house keepers thereof, shall meet at some convenient time and place to be appointed, and publicly advertised by the sheriff of the said county of Hanover, before the fifteenth day of January next following; and then and there elect such and so many of the most able and discreet persons of their parish, as will make up the number of vestrymen in each of the said parishes, twelve, and no more: Which vestrymen so continued and elected, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be

the vestries of the said parishes, respectively: And the vestries of the said parishes, respectively, are hereby impowered and made capable to take, receive, and hold any lands, tenements, or hereditaments, to be purchased or given for a glebe or glebes, for the use of the parsons of the said parishes, for the time being, for ever.

III. *Provided always*, That nothing herein contained shall be construed to hinder the collector of the said parish of Saint Martin, as the same now stands entire and undivided, from collecting or making distress for any parish levies, which shall remain unpaid by the inhabitants of the said parish of Fredericksville, at the time of its taking place: But such collector shall have the same power to collect and distrain for the said levies, and shall be answerable for them, in the same manner, as if this act had never been made; any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXXI.

An Act, for dividing the parish of Bristol, in the county of Prince George; and erecting the same into two distinct parishes; and other purposes therein mentioned.

Parish in
Prince
George divided.

I. **W**HEREAS, by reason of the large extent of the parish of Bristol in the county of Prince George, the minister and inhabitants thereof, labour under many inconveniences: For removal of which, for the future, *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, it is hereby enacted, by the authority of the same,* That from and after the first day of September next, the said parish of Bristol shall be divided, by a line, to begin at Major James Munford's mill, on Appomattox river, and running thence a course parallel to the lower line of the said parish to Stony Creek; and thence down the said creek to Surry county, and all that part of the said parish, situate below the said line, be erected into one distinct parish, and retain the name of Bristol: And all the other part thereof, sit-

Bristol.

nate above the said line, be erected into one other distinct parish, and called by the name of Bath.

II. *And be it further enacted, by the authority Bath aforesaid,* That the present vestrymen of the said parish of Bristol, that shall continue so to be until the division shall take place, shall be vestrymen of the said parishes of Bristol, and Bath, wherein they shall dwell, respectively: And for compleating the number of vestrymen in the said parishes, the freeholders and housekeepers thereof, shall meet at some convenient time and place to be appointed, and publicly advertised by the sheriff of the said county of Prince George, before the first day of October next following; and then and there elect such and so many of the most able and discreet persons of their parish, as will make up the number of vestrymen in each of the said parishes, twelve, and no more: Which vestrymen so continued and elected, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be the vestries of the said parishes, respectively. And the vestries of the said parishes, respectively, are hereby impowered and made capable to take, receive, and hold any lands, tenements, or hereditaments, to be purchased or given, for a glebe or glebes, for the use of the parsons of the said parishes, for the time being, for ever.

III. *And be it further enacted, by the authority aforesaid,* That the vestry of the said parish of Bristol shall in their next parish levy, after the division shall take place, raise and pay unto the vestry of the said parish of Bath, fifteen pounds of tobacco, free from deduction, for every tithable that shall remain in the said parish of Bristol, after the division shall take place: To be applied towards lessening the levy in that parish, by the poll, and to be in full of all demands, for building of churches, purchasing a glebe, or otherwise, which the said parish of Bath might have against the said parish of Bristol.

IV. *Provided always,* That nothing herein contained, shall be construed to hinder the sheriff, or collector of the said parish of Bristol, as the same now stands

undivided, to collect or make distress for any levies or other dues, which shall be due from the inhabitants of the said parish of Bath, after the same shall take place, in the same manner as by law they might have done, if this act had never been made; any thing herein contained, or any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXXII.

An Act, to vest certain entailed lands, parcel of a greater tract therein mentioned, in George Braxton, the younger, in fee simple; and for settling other lands of greater value, to the same uses.

Certain entailed lands vested in George Braxton.

I. **W**HEREAS, William Banks, late of the parish of St. Stephen, and county of King and Queen, was, in his life time, seised in fee simple of, and in twelve hundred acres of land, with the appurtenances, situate, lying, and being in the parish and county aforesaid: And by his last will and testament, in writing, bearing date the tenth day of November, in the year of our lord, one thousand seven hundred and nine, devised the same by the name and description of his house, and dividend of land, whereon he then lived, to his son Ralph, conditionally, that he should no way alienate, or transfer the same, to any other use, than to the use or uses that should be by him the said testator, therein declared, and to his heirs of his body lawfully begotten, meaning his children present, or hereafter, to whom the right of inheritance of, in, and to the said land, should descend and go, in case they, or any of them, survive him, as in, and by the said will, may more fully and at large appear. And sometime afterwards, the said William Banks died, so as aforesaid seised; after whose death, the said Ralph Banks entered into the said land, with the appurtenances, so as aforesaid devised, and was thereof seised in fee tail, and died, so seised, sometime in or about the year of our lord, one thousand seven hundred and thirty five; after whose death, the said twelve hundred acres of land, with the appurtenances, descended and came to William Banks, as heir of the body of the said Ralph Banks, his father; which said last mentioned William

Banks, lately bargained and sold four hundred and twenty acres, part thereof, to George Braxton, the younger, of the parish and county aforesaid, gentleman.

II. And whereas, the said last mentioned William Banks, is seised, in fee simple, of, and in one water grist-mill, and three hundred and ninety four acres of land, with the appurtenances, in the parish of St. John, in the county of King William, which he is willing to settle to the same uses, as the before mentioned twelve hundred acres of land are settled, by the last will and testament of the first mentioned William Banks, his grandfather so as the fee simple estate of the said four hundred and twenty acres of land, with the appurtenances, may be confirmed to the said George Braxton. And forasmuch as the said water grist mill, and three hundred and ninety four acres of land, in the county of King William, are of greater value than the said four hundred and twenty acres; and notice has been published, three Sundays successively, in the church of the aforesaid parish of St. Stephen, that application would be made to this General Assembly, to vest the said four hundred and twenty acres, with the appurtenances, in the said George Braxton, in fee simple, upon settling the said water grist mill, and three hundred and ninety four acres of land, to the same uses as the said twelve hundred acres are settled, by the last will and testament of the said William Banks, pursuant to your majesty's instructions:

III. May it therefore please your most excellent majesty, at the humble suit of the said William Banks, son of the said Ralph Banks, and George Braxton, the younger, that it may be enacted, *and be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and by the authority of the same,* That the said four hundred and twenty acres of land, with the appurtenances, parcel of the said twelve hundred acres, so as aforesaid devised, by the last will and testament of the said first mentioned William Banks, be, and are hereby vested, in the said George Braxton, the younger, his heirs and assigns, to the only use and behoof of him the said George Braxton, his heirs and assigns for ever: And that the said water grist mill, and three hundred and ninety four acres, with the appurtenances, in the said county of

King William, shall be, and are hereby vested, in the said William Banks, son of the said Ralph Banks, and the heirs of his body, lawfully begotten, for ever: And that he, and all and every person or persons whatsoever, who, by the last will and testament of the said William Banks, the testator, might have claimed the said four hundred and twenty acres of land, hereby vested in the said George Braxton, as aforesaid, shall, for ever hereafter, hold and enjoy the said water grist-mill, and three hundred and ninety four acres of land, in the said county of King William, with the appurtenances, successively, one after another, as they might have claimed and held the said four hundred and twenty acres, if this act had never been made.

IV. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person or persons, bodies politic and corporate, their respective heirs and successors, other than the person or persons claiming the said four hundred and twenty acres of land, under the last will and testament of the said William Banks, the testator, all such right, title, estate, interest, claim, and demand, as they, every, or any of them should, or might have had, or claimed, if this act had never been made. *Provided always*, That the execution of this act shall be suspended, until his majesty's approbation thereof, shall be obtained.

CHAP. XXXIII.

An Act, to enable Frances Greenhill, to sell and dispose of her lands, and other estate, by deed or will, notwithstanding her husband Joseph Greenhill shall happen to be living; and for other purposes therein mentioned.

Frances
Greenhill au-
thorised to
dispose of
certain lands.

I. **W**HEREAS, Frances Greenhill, of the county of Prince George, late Frances Taylor, sometime in the year of our Lord, one thousand seven hundred and sixteen, intermarried with one Joseph Greenhill; and at the time of such marriage, was seised in fee, of one tract or parcel of land, lying and being in the parish of Martin's-Brandon, in the county of Prince George, containing by estimation, nine hundred acres; and of one other parcel of land, lying and being in the

parish of Albemarle, in the county of Surry, containing by estimation, four hundred acres: And was also possessed of a personal estate, to the value of two hundred pounds, and upwards.

II. And whereas, the said Joseph Greenhill, at the time of such marriage, was a person of no fortune, or circumstance; and in less than two years after the said marriage, left the said Frances, and departed out of this colony, having first spent and consumed great part of the personal estate brought him by the said Frances; and also contracted several debts, for satisfaction whereof, his creditors, after his departure, seised, and took in execution, the small remains left by him of the said personal estate; whereby the said Frances was reduced to the utmost misery and distress; and was obliged, for some time, to depend upon the charity and assistance of her friends, for her support. And the said Joseph Greenhill, about a year after his departure, wrote a letter to the said Frances, declaring that if she followed him, he would not receive her, or make any provision for her; and that he would never return to her, or look upon her as a wife.

III. And whereas the said Frances Greenhill, hath made humble suit, by petition, to this present General Assembly, setting forth the matters aforesaid; and that she had received no letter from the said Joseph Greenhill for these twenty years past, nor can arrive to any certain knowledge, whether he be living, or dead: And also, that since her said husband's departure, she hath by her industry, and the assistance of her friends, been enabled to purchase a few slaves; and hath also acquired a small personal estate, tho' not sufficient to support her, in the decline of life, so comfortably as she might be supported, if she could dispose of her lands: But that no purchaser will treat with her, on account of the incertainty, whether her said husband be living or dead: And further setting forth, that in her present unhappy situation, she is exposed to many injuries, by trespasses on her lands, and otherwise; and that she has no child. And having great obligations of gratitude to her friends, who assisted her in her distress, she would be willing to give or leave the small estate she hath, or may have in possession, at her death, among them; which she is advised she cannot do, by

law, in case her said husband should happen to be living, without an act of Assembly, to enable her so to do.

IV. And whereas, public notice hath been given, at the parish church of Brandon aforesaid, three Sundays successively, that application would be made, by the said Frances Greenhill, to this present General Assembly, that an act may pass for the purposes aforesaid, pursuant to his majesty's instructions; and no person appearing to oppose the same, and it appearing reasonable and just to this present General Assembly, that inasmuch as the said Joseph Greenhill hath been absent so many years, and hath utterly neglected and refused to make any provision for the maintenance of the said Frances Greenhill, during all that time, that the said Frances should have power, notwithstanding her said husband should happen to be now living, to dispose of her own lands; and also, of such estate as she hath acquired by her own industry, since her said husband left her:

V. May it please your most excellent majesty, at the humble suit of the said Frances Greenhill, that it may be enacted, *and be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and by the authority of the same.* That the said Frances Greenhill shall and may, and she is hereby enabled, notwithstanding the said Joseph Greenhill, her husband, shall happen to be living, to grant, convey, sell, and dispose, either by deed, executed in her life time, or by her last will and testament, in writing, to any person or persons whatsoever, and for such estate and estates as she shall think fit, all, or any part of the lands, tenements, or hereditaments, whereof she now is, or hereafter shall be seised, in fee simple, and also to give, sell, and dispose of all or any part of the slaves, or personal estate whereof she now is, or hereafter shall be possessed, in the same manner as she might, or could dispose of the same, if the said Joseph Greenhill was naturally dead, and the said Frances Greenhill, was actually and really a feme sole.

VI. *And be it further enacted, by the authority aforesaid,* That the said Frances Greenhill shall, and may, and she is hereby enabled, at all times hereafter, by the name of Frances Greenhill, to make contracts and agreements in her own name; and to sue, and be

gued, in all courts of judicature within this colony, as a feme sole may, or can by law. notwithstanding the said Joseph Greenhill shall happen to be living: And that none of the estate real or personal whereof the said Frances Greenhill now is, or hereafter shall be seised, or possessed, shall be subject or liable to the debts, controul, or disposition, of the said Joseph Greenhill, in case he be living; but that the same shall, for ever hereafter, remain, and be for the sole and separate use and behoof of the said Frances Greenhill, her heirs, executors or administrators, or such other person or persons, to whom she shall give, grant, convey, or devise the same, as aforesaid. Any law, statute, custom, or usage, to the contrary, notwithstanding.

VII. *Provided always*, That in case the said Joseph Greenhill shall happen to be now living, and the said Frances shall survive him, that she, the said Frances, shall not claim, have or be entitled to any part or share of the estate of the said Joseph Greenhill, either real or personal; but that she, the said Frances, shall be and is hereby utterly excluded and barred from all dower and thirds, or other part or share of the estate of the said Joseph Greenhill, either real or personal: Any law, statute, usage, or custom, to the contrary notwithstanding.

VIII. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person or persons, bodies politic and corporate, their respective heirs and successors, other than the person or persons claiming under the said Joseph Greenhill, all right, title, estate, interest, claim, and demand, as they, every, or any of them should, or might have had or claimed, if this act had never been made. *Provided always*, That the execution of this act shall be suspended, until his majesty's approbation thereof, shall be obtained.

Wm. Gooch,
esq. Govern-
or.

AT A

General Assembly,

SUMMONED TO BE HELD AT

The Capitol, in the City of Williamsburg, on Thursday, the sixth day of May, in the fifteenth year of the reign of our sovereign lord George the second, by the grace of God, of Great-Britain, France, and Ireland, King, Defender of the Faith, &c. And from thence continued, by several prorogations, to Tuesday, the fourth day of September, in the eighteenth year of his said Majesty's reign, and in the year of our Lord 1744: Being the second Session of this Assembly.

CHAP. I.

An Act, for the relief of certain Creditors.

Preamble.

I. **W**HEREAS great difficulties have arisen, in the recovery of debts due to the inhabitants of this colony, from persons residing in other parts of his majesty's dominions, or who have removed themselves into foreign parts, having effects here sufficient for the satisfying and paying such debts; for remedy whereof,

Foreign attachments.

Absent defendants, how proceeded against in chancery.

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That if any suit which hath been, or hereafter shall be commenced, for relief in equity, in the general court of this colony, any defendant or defendants, against whom any subpoena or other process shall issue, shall not cause his, her or their appearance to be entered upon such process, within such time, and in such manner as, according to the rules of the court, the same ought to have been entered, in case such process had been duly served, and an affidavit or affidavits shall be made, to the satisfaction of such court, that*

such defendant or defendants is or are beyond the seas, or that upon enquiry at his, her, or their usual place of abode, he, she, or they could not be found, so as to be served with such process; then, and in such cases, the said court may not only make any order or orders to restrain and injoin any person or persons in this colony, having any effects belonging to the defendant or defendants in their hands, or in any other manner, debtors to the defendant or defendants, from paying, conveying away, or secreting such debts or effects, until the further order or decree of the said court; but also may, (if to the said court it shall seem necessary) order such effects to be delivered to the plaintiff or plaintiffs, subject to the future order and decree of the said court, upon such plaintiff or plaintiffs giving such security as to the said court shall seem proper, for the return of the said effects, in such manner, and to such persons as the said court shall adjudge: And the said court also shall and may make an order, directing and appointing such defendant or defendants to appear, at a certain day therein to be named, of the next succeeding court: and a copy of such order shall, within fifteen days after such order made, be inserted in the Virginia Gazette, for two months successively, and published on some Lord's day, immediately after divine service, in such parish church or churches as the said court shall appoint and direct; and also in every case a copy of such order shall, within the time aforesaid, be posted up at the front door of the Capitol, in the city of Williamsburg: And if the defendant or defendants do not appear within the time limited by such order, or within such further time as the court shall appoint, then on proof made of such publication of such order as aforesaid, the court, being satisfied of the truth thereof, may order the facts of the plaintiffs bill to be taken pro confesso. But if the matter or cause of such suit or suits, be for the adjustment and settlement of any account or accounts, and for satisfaction of what ballances may appear due thereon, then, and in such cases, the court may, either by assigning and appointment of auditors; or in any other manner, proceed to the stating and settlement of such account or accounts, and make such order and decree thereupon, as shall be thought just; and may thereupon issue process to compel the performance of such decree, either by immedi-

ate sequestration of the real and personal estate and effects of the defendant or defendants, (if any such can be found) or such part thereof as may be sufficient to satisfy the demands of the plaintiff or plaintiffs in the said suit, or by causing possession of the estate or effects, demanded by the bill to be delivered to the plaintiff or plaintiffs, or by continuing the effects, (if any) so ordered to be delivered on the return of the subpoena as aforesaid, or such part thereof as may be sufficient to satisfy the plaintiff or plaintiffs demands and costs of suit, in the hands of the plaintiff or plaintiffs; or give such further relief or remedy as the nature of the case shall require: And the said court may likewise order such plaintiff or plaintiffs to be paid and satisfied his, her or their demands, out of the estate or effects so sequestered, according to the true intent and meaning of such decree, such plaintiff or plaintiffs first giving sufficient security in such sum as the court shall think proper to abide such order touching the restitution of such estate or effects, as the court shall think proper to make concerning the same, upon the defendant or defendants appearance to defend such suit, and paying such costs to the plaintiff or plaintiffs, as the court shall order: But in case such plaintiff or plaintiffs shall refuse or neglect to give such security as aforesaid, then the said court shall order the estate or effects so sequestered, or whereof possession shall be decreed to be delivered, to remain under the direction of the court, either by appointing a receiver thereof, or otherwise, as to such court shall seem meet, until the appearance of the defendant or defendants to defend such suit, and his, her, or their paying such costs, to the plaintiff or plaintiffs, as the said court shall think reasonable, or until such order shall be made therein as the court shall think just.

Defendants
refusing to
enter appear-
ance.

III. *And it is hereby further enacted, by the authority aforesaid, That from and after the passing of this act, if any defendant or defendants, by virtue of any writ of habeas corpus, or other process issuing out of the said court, shall be brought into court, and shall refuse or neglect to enter his, her or their appearance, according to the rules and method required by the said court, or to appoint an attorney of such court, to act on his, her, or their behalf, respectively, such court may appoint an attorney of such court, to enter an appear-*

ance for such defendant or defendants, respectively; and such proceedings may thereupon be had in the cause, as if the party had actually appeared.

IV. *Provided always*, That if the person, against whom any decree shall be made, upon refusal or neglect to enter his, her, or their appearance, or appoint an attorney to act on his, her, or their behalf, shall be in custody, or forth coming, so that he, she or they may be served with a copy of such decree: then he, she or they, shall be served with a copy thereof, before any process shall be taken out to compel the performance thereof. If in custody.

V. *Provided also*, That if any decree shall be made, in pursuance of this act, against any person or persons, being out of this colony, or absconding as aforesaid, at the time such decree is pronounced, and such person or persons, shall, within seven years after the making such decree, return, or become publickly visible; then, and in such case he, she or they, shall likewise be served with a copy of such decree, within a reasonable time after his, her or their return, or publick appearance, shall be known to the plaintiff or plaintiffs: And in case any defendant, against whom such decree shall be made, shall, within seven years after the making such decree, happen to die before his, or her return into this colony, or appearing openly, as aforesaid, or shall, within the time last before mentioned, die in custody, before his or her being served with a copy of such decree, then his or her heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff or plaintiffs, and such heir may be found, or if such heir shall be a feme covert, infant, or non compos mentis, the husband, guardian, or committee of such heir, respectively; or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff or plaintiffs, then his or her executor, or administrator, (if any such there be) may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff or plaintiffs, that the defendant is dead, and who is his or her heir, executor or administrator, or where he, she or they, respectively, may be served therewith. Absent defendants may shew cause, within 7 years.

VI. *Provided always*, That if any person or persons, so served with a copy of such decree, shall not, within When decree final.

twelve months after such service, appear, and petition to have the said cause re-heard, such decree, so made as aforesaid, shall stand absolutely confirmed against the person and persons so served with a copy thereof, his, her and their respective heirs, executors and administrators, and all persons claiming by, from, or under, him, her, them, or any of them, by virtue of any act, done or to be done, subsequent to the commencement of such suit.

How defendants permitted to answer.

VII. *Provided nevertheless*, That if any person so served with a copy of such decree, shall, within twelve months after such service; or if any person, not being so served, shall, within seven years next after the making such decree, appear in court, and petition to be heard, with respect to the matter of such decree, and shall pay down or give security for payment of such costs, as the court shall think reasonable in that behalf; the person or persons so petitioning, his, her or their respective representatives, or any person or persons, claiming under him, her or them respectively, by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined; and such other proceedings, decree, and execution, may be had thereon, as there might have been, in case the said party had originally appeared, and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

When barred.

VIII. *Provided nevertheless, and be it enacted, by the authority aforesaid*, That if any person or persons, against whom such decree shall be made, his, her, or their heirs, executors or administrators, shall not, within seven years next after the making of such decree, appear and petition to have the cause re-heard, and pay down, or give security for payment of such costs, as the court shall think reasonable in that behalf, such decree made, as aforesaid, shall stand absolutely confirmed against the person and persons against whom such decree shall be made, his, her and their heirs, executors and administrators, and against all persons claiming or to claim, by, from or under him, her, them or any of them, by virtue of any act, done or to be done, subsequent to the commencement of such suit: And at the end of such seven years it

shall and may be lawful, for the court to make such further order, as shall be just and reasonable, according to the circumstances of the cause.

CHAP. II.

An Act, to explain and amend an Act, intituled, an Act for the effectual suppression of vice, and restraint and punishment of wicked, blasphemous, and dissolute persons.

I. WHEREAS the act of Assembly, made in the fourth year of the reign of her late majesty Preamble: queen Anne, intituled, *an act, for the effectual suppression of vice, and restraint and punishment of wicked, blasphemous, and dissolute persons*, hath been found insufficient to restrain and discourage wickedness and vice; and different opinions have also prevailed, touching the meaning thereof: Therefore, for the better explaining and amending the same;

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the passing of this act, if any person or persons shall profanely curse or swear, he, she or they so offending, being thereof convicted, in the manner as in the said recited act is directed, shall, for every respective oath or curse, by him or her so sworn and uttered, forfeit and pay the sum of five shillings, or fifty pounds of tobacco: And if any person or persons so convicted, shall refuse to make present payment of such forfeiture or forfeitures, or give sufficient security for the payment thereof, at the laying of the next parish levy, after such conviction, that then the same shall be levied on the goods and chattels of such offender or offenders, by execution, under the hand of the justice of the peace, before whom such conviction shall be directed, to the sheriff or constable, to be executed in like manner as other executions and distresses are levied; and if no goods and chattels of such offender or offenders can be found, whereon to levy the said sum or sums, then he, she, or they, shall have and

Profane swearing, penalty for.

How enforced.

receive ten lashes upon his, her, or their bare back, well laid on, for every such forfeiture.

Limitation.

III. *Provided always*, That no justice of the peace shall give judgment for more than four oaths or curses, sworn or uttered at any one time, or issue execution against any offender, for more than twenty shillings or two hundred pounds of tobacco, upon any one conviction; and also that no offender or offenders shall receive more than twenty lashes, upon such conviction.

Not attending church, excuse for.

IV. *And be it further enacted*, That when any person shall hereafter be presented by the grand jury, or prosecuted by the church wardens, or otherwise, for wilfully absenting him, or herself from divine service, at his or her parish church or chappel, the space of one month, if such person shall make it appear, by the oath of one or more credible witness or witnesses, that he or she so presented or prosecuted, hath been at divine service at any other church or chappel than his or her own parish church or chappel, within the space for which he or she shall be so presented, for being absent; that then such presentment or prosecution shall be dismissed, and the party prosecuted discharged from the forfeiture in the said act mentioned. And forasmuch as many doubts have arisen touching the offences and matters to be presented by grand juries, for settling whereof for the future,

Limitation of presentments.

V. *Be it further enacted, by the authority aforesaid*, That the grand juries hereafter shall, and they are hereby required to make presentment of all such offences and breaches of penal laws only, as shall be committed within the space of twelve months before the time of such presentment, unless the same be otherwise directed by law, and no longer.

VI. *And be it further enacted*, That so much of the said recited act of Assembly, as relates to any matter or thing within the purview of this act, shall be, and the same is hereby repealed and made void.

CHAP. III.

An Act, to settle the distribution of the salary, allowed by his majesty, to the council of this colony.

I. WHEREAS his majesty hath been graciously pleased to grant unto the members of his council of this colony, the yearly sum of six hundred pounds sterling, out of his revenues, as a salary or reward for their services; and whereas, by the Act of Assembly, made in the fourth year of the reign of the late queen Anne, *for establishing the general court, and for regulating and settling the proceedings therein*, the said court is established, and declared to consist of the governor, and the council aforesaid; and the said judges are directed, at the time of entring into office, to take an oath, therein particularly set forth, under a penalty, in which oath, among other things, they swear, “that they shall not take any fees or other gratuity, of any person, great or small, except such salary as shall be by law appointed.” And whereas a doubt has lately arisen, whether the members of the said council, as judges of the general court, can, with safety, take or receive the said salary, and proportion the same, according to their attendance in the said general court, as has been long practised, and always thought very reasonable and proper: Therefore, for obviating all scruples touching this matter,

II. Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the true intent and meaning of the said recited words in the oath aforesaid, is, and it is hereby declared to be as it has always been understood, only to restrain the said judges, or any of them, from receiving or taking any gift or gratuity, from any person or persons whatsoever, towards the delay or obstruction of justice; and not to debar or restrain them from receiving and taking to their own benefit, the said six hundred pounds sterling, or any part thereof, in the capacity of judges of the general court, or any sum or sums of money, or other salary or salaries whatsoever, which the king’s majesty, his heirs and successors, shall think fit and reasonable, from time to time, to allot and allow them, for such their service; or from ma-

Preamble.

Members of general court, being councillors, may take the salary, without violation of their oath as judges.

king such distribution of their salary or allowance, as to the members of the said council shall seem reasonable and proper; but it is hereby declared lawful for them to accept and receive such salaries and allowances from time to time, in the same manner as if given and granted by act or acts of parliament, or of the General Assembly of this colony.

CHAP. IV.

An Act, for continuing an Act, made in the first year of his majesty's reign, intituled, an Act for making more effectual provision against invasions and insurrections; and one other act, intituled, an Act, for continuing and amending the aforementioned Act.

Preamble.

I. **W**HEREAS the act, made in the first year of his majesty's reign, intituled, *an act, for making more effectual provision against invasions and insurrections*, was continued and amended, by an act, made in the thirteenth year of his majesty's reign, which last mentioned act will expire on the twenty first day of December, one thousand seven hundred and forty-four; and it being expedient that both the said acts should be further continued,

Continuation of former laws.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That both the above mentioned acts shall continue and be in force, from the aforesaid twenty first day of December, for and during the term of four years.*

CHAP. V.

An Act, to amend an Act, intituled, an Act, for preventing excessive and deceitful gaming; and another Act, intituled, an Act, to prevent the recovery of money, or other valuable things, won on wagers; and for the more effectual restraint of gaming at ordinaries.

I. WHEREAS the act of Assembly, made in the Preamble. first year of his present majesty's reign, intituled, *an act, for preventing excessive and deceitful gaming*; and also another act, passed in the thirteenth year of the reign of his said majesty, intituled, *an act, to prevent the recovery of money, or other valuable things, won on wagers; and for the more effectual restraint of gaming at ordinaries*, have been found insufficient; therefore,

II. Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That if any person or persons whatsoever, shall, at any time hereafter, within the space of twenty four hours, by playing at any game or games whatsoever: (the games at billiards, back gammon, and bowles excepted) or by betting on the sides or hands of such as do play at any game or games, except as is before excepted, lose to any one or more person or persons, so playing or betting, in the whole, the sum or value of forty shillings, and shall pay and deliver the same, or any part thereof; the person or persons so losing and paying and delivering the same, shall be at liberty, within three months then next following, to sue for, and recover the money or goods, so lost and paid or delivered, or any part thereof, from the respective winner and winners thereof, with costs of suit, in such manner as in the said first recited act is mentioned and directed: **And in case the person or persons, who shall lose such money or other thing as aforesaid, shall not, within the time aforesaid, really and bona fide, and without collusion, sue, and with effect, prosecute for the money or other thing, so by him or them lost and paid as aforesaid, it shall and may be lawful to and for any person or persons, to sue for and recover the same, with costs of suit, against such winner or winners, as afore-**

Loser at gaming, how to recover back.

When others may sue.

said; and the money or other thing so recovered, to be applied as in and by the said act is also directed.

Gaming at
ordinaries,
&c.

III. *And be it further enacted*, That if any person or persons shall, at any time hereafter, play in an ordinary, race field, or any other publick place, at any game or games whatsoever, except as before excepted; or bet on the sides or hands of such as do game; such person or persons, and every or either of them, shall, upon being convicted thereof before a justice of the peace, in any county within this colony & dominion, upon the oath of one or more credible witness or witnesses, (which said oath the said justice is hereby empowered to administer) or upon the view of such justice, or on the confession of the party or parties accused, forfeit and pay the sum of five pounds: To be levied by distress and sale of the offenders goods, by warrant under the hand of the said justice; and moreover shall be committed to the common goal, there to remain, until he, she, or they find good and sufficient security for his, her, or their good behaviour, for the space of twelve months.

Penalty on
ordinary
keepers.

IV. *And be it further enacted, by the authority aforesaid*, 'That if any ordinary keeper shall suffer or permit any person or persons whatsoever, to play at any unlawful game or games whatsoever, in his house, shed, booth, arbour, or stall, either by night or day, every such ordinary keeper shall, upon conviction thereof, forfeit and pay the sum of five pounds. And if any justice or justices of the peace shall hereafter be present, when any person or persons play at any of the games aforementioned, at any time or place whatsoever, except in private houses, and neglect to issue his warrant for levying the fine on the person or persons so gaming or betting, contrary to the directions of this act; such justice, or justices, and every of them, upon conviction thereof, in manner aforesaid, shall forfeit and pay the sum of five pounds.

Appeal.

V. *Provided always, and it is hereby enacted and declared*, That if any person or persons shall think him, her, or themselves aggrieved, by the judgment or determination of any justice of the peace, upon any conviction of, or for any of the offences in this act, such person or persons may appeal from the said judgment of the said justice, to the next court, to be held for the said county where such person or persons was or were

convicted; but the person and persons so appealing, shall, and he, she, and they are hereby directed to give reasonable notice to the prosecutor or prosecutors of such person or persons as shall so appeal, of such his, her, or their intention of bringing and prosecuting such appeal; and shall enter into a recognizance before some justice of the peace for the county wherein such judgment was given, with two sufficient securities, on condition, to try such appeal at the next court to be held in the same county, next and immediately after the bringing such appeal: And every such appeal and appeals shall, by the said court, be then examined, and the matter heard and finally determined.

VI. *Provided always*, That no such conviction made or judgment given, as aforesaid, by this act, shall be set aside for want of form, in case the facts alledged in the said conviction, shall be proved, to the satisfaction of the said court; nor shall such conviction or judgment be removed, or removeable by appeal, certiorari, or any other writ or process whatsoever, into the general court of this colony.

VII. *And be it further enacted, by the authority aforesaid*, That all and every of the fines imposed by virtue of this act, shall be to the use of the poor of the parish, wherein the offence or offences shall be respectively committed.

VIII. *And be it further enacted*, That the said in part recited acts, so far as relates to any matter or thing within the purview of this act, is, and are hereby repealed and made void, to all intents and purposes, as if the same had never been made.

CHAP. VI.

An Act, to amend the law for proving Wills in the General Court, and County Courts.

I. **W**HEREAS the proof of wills in the general court, or county courts of this colony, where lands are devised away from the heir or heirs at law of the decedent, is attended with inconveniences to the executors, and losses in the personal estate: For remedy whereof,

Want of form, no bar.

Appropriation of fines.

Repealing clause.

Preamble.

Wills may be proved as soon as exhibited.

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the passing of this act, when any wills are exhibited to be proved in the general court, or any county court of this dominion, it shall and may be lawful to and for the said courts, to proceed immediately to receive the proof of such wills; and to appoint appraisers to value the slaves and personal estate of such testator.

Not to affect heir at law.

III. *Provided always,* That where the lands of such testator, or any part thereof, shall, by such wills, be devised away from the heir or heirs at law, such proof, as to him, her, or them, shall not be binding; but such heir or heirs shall be summoned, in the manner directed by law, and shall and may be at liberty to contest the validity of such will, in the same manner as if this act had never been made.

CHAP. VII.

An Act, to continue and amend an Act, intituled, an Act, for reducing the laws made, for amending the staple of Tobacco; and for preventing frauds in his majesty's customs, into one act of Assembly.

Preamble.

I. **WHEREAS** the act of Assembly, made in the fifteenth year of the reign of his present majesty, intituled, *an act, for reducing the laws made for amending the staple of tobacco; and for preventing frauds in his majesty's customs, into one act of Assembly,* hath been found, in a great measure, to answer the good end and design thereof; yet, for the rendering the same more convenient and effectual,

Occoquan warehouse discontinued.

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the ninth day of November next, the public warehouse on the lower side of Occoquan, in the county of Prince William, be, and is hereby repealed, and shall no longer be accounted a public warehouse, for the inspection of tobacco; and that instead of the said warehouse on Occoquan, a public warehouse shall be established on Pohick, on the land of

Pohick warehouse established.

Dennis M'Carty, deceased, where the warehouses formerly were to be, under the same inspection as the warehouse on the upper side of Occoquan. And that a public warehouse be erected at Waller's ferry, in King William county, opposite to the warehouse at Walkerton. And that the warehouses at Bolling's point, in Prince George county, and at Colonel John Bolling's, in Henrico county, now under one inspection, be disjoined and made two inspections: And the warehouses at Mantipike, and Walkerton, in King and Queen county, be disjoined, and that at Walkerton to be under the same inspection with that at Waller's ferry, in King William county: And the warehouses at Maycox, and Jordan's, in Prince George county, now under one inspection, be disjoined, and made two inspections.

Waller's.

Warehouses disjoined.

Rents altered.

III. *And be it further enacted, by the authority aforesaid,* That so much of the said act as settles the rent of John Bolling's warehouse, be, and is hereby repealed; and that from and after the passing of this act, there shall be paid and allowed for the rent of the said warehouse, eight pence for every hogshead of tobacco that shall be received, inspected, and delivered out.

Inspectors salaries.

IV. And for the better and more equal settlement of the salaries of the several inspectors, at the warehouses hereafter mentioned, *Be it further enacted,* that the same be established, for each inspector, according to the following rates:

	Pounds per annum.
At Conway's,	40
At Roy's,	45
At Shoccoe's,	50
At Jordan's,	25
At Maycox,	25
At Waller's and Walkerton,	25
At Mantipike,	30
At Bolling's Point,	35
At John Bolling's,	25
At Falmouth,	45
At Occoquan, and Pohick,	30

V. *And be it further enacted,* That the notes of the several warehouses hereafter mentioned, shall pass in payment of all levies, quit-rents, and officers fees, paid.

Currency of certain notes.

able in the counties following; that is to say, the notes of Warwick, Shoccoe's, Bolling's Point, and John Bolling's, shall pass in the county of Amelia; and the notes of Acquia, in Prince William County; and the notes of Shoccoe's, Warwick, Page's, and Merriwether's, in the county of Albemarle; and the notes of Royston's, Page's, and Merriwether's, in the county of Louisa.

Abatement
in Albe-
marle.

VI. *And be it further enacted*, That out of every hundred pounds of tobacco, due in the county of Albemarle, for quit-rents, secretary's, clerks, sheriffs, surveyors, and other officers fees, and so proportionably, for a greater or lesser quantity, there shall be made an abatement to the payer, of thirty per cent. for every hundred so due from him.

VII. And whereas it is, by the said act, provided, that where any warehouses have been or shall be built, by the justices or other person, as aforesaid, and the first proprietor of the land shall desire to have the same again; such proprietor, upon payment of so much money as shall be sufficient, to reimburse the said justices or other person the principal money expended on the building such warehouses, with lawful interest, shall be restored to his former estate, in the land whereon such warehouses are built; and shall receive the rents afterwards growing due, for such warehouses: And whereas it is doubted whether the justices are, by the said act, obliged to account with the proprietors for the rent of such warehouses,

Proprietors
how restored
to warehou-
ses.

VIII. *Be it enacted, by the authority aforesaid*, That the said justices shall account with such proprietor, for the money by them received for the rent of such warehouse; and that the proprietor, upon reimbursing the said justices the principal money expended, in the building and repairing such warehouses and wharfs, with lawful interest, deducting the rents by the said justices received, shall be restored to his former estate, in the land whereon such warehouses are built.

Failing to
build.

IX. *Provided always*, That if any proprietor, so as aforesaid restored to his estate, shall neglect or refuse to repair and build such houses and wharfs, as the court shall think necessary, the justices shall be again seised in the fee simple estate of such land, during the time such place shall be made use of for a public ware-

house; and such proprietor shall not have any benefit of the rents that shall thereafter become due.

X. And whereas it is also, by the said act, provided, that no tobacco, on any pretence whatsoever, shall be carried or transported by water, to be inspected, out of the district limited and appointed for the several naval officers of this colony, wherein the same is or shall be made, or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting, by the owner of such tobacco, and the inspector who shall pass the same, twenty shillings for every hogshead, to the informer: And whereas the penalty by the said act inflicted, is judged insufficient effectually to prevent that evil, and as the law now stands, it is difficult to convict the offenders;

XI. *Be it therefore enacted, by the authority aforesaid,* That over and above the penalty by the said act inflicted, the tobacco so brought to any warehouse shall be forfeited; one moiety of which forfeiture shall be to the informer, and the other moiety to the use of the College of William and Mary: And upon any information brought against any person or persons for the said offence, the onus probandi shall lie upon the person claiming the property of the said tobacco, or bringing the same to the warehouse to be inspected.

Carrying uninspected tobacco from one district to another.

XII. And whereas by reason of the large quantity of tobacco now in the warehouses, and of the uncertain arrival of the ships from Great Britain, during the present war, it will be necessary that the inspectors shall give further attendance at the warehouses;

XIII. *Be it therefore enacted,* That every inspector of tobacco, from the tenth day of November, to the last day of September, yearly, shall constantly attend at the several warehouses under their charge, to receive, inspect, and deliver tobacco, except Sundays, and the holidays observed at Christmas, Easter, and Whitson-tide, or when otherwise hindered by sickness.

Attendance of inspectors.

XIV. *And be it further enacted, by the authority aforesaid,* That this act shall commence immediately from and after the passing thereof; and, together with the said act, for reducing the laws made for amending the staple of tobacco; and for preventing frauds in his majesty's customs, into one act of Assembly, for so much thereof as is not repealed or altered by this act, shall

Limitation of this and former acts.

continue in force, till the ninth day of November, in the year of our Lord one thousand seven hundred and forty six; and from thence, two years next following; and from thence to the end of the next session of Assembly.

CHAP. VIII.

An Act, for continuing the Act, intituled, An Act, for laying a duty upon liquors.

Preamble.

I. **W**HEREAS the act of Assembly, made in the fifth and sixth years of his present majesty's reign, intituled, *an act, for laying a duty upon liquors*, which hath been continued by several subsequent acts, will expire on the last day of July, in the year of our Lord one thousand seven hundred and forty six; and it being the best expedient to raise money to answer the exigencies of this government, it is necessary that the said act should be further continued.

Former acts,
imposing du-
ties on li-
quors con-
tinued.

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the said recited act of Assembly, made in the fifth and sixth years of his present majesty's reign, *for laying a duty upon liquors*; and all other subsequent acts made for continuing and amending the same, as to so much of them as relates to the said duty upon liquors, shall be, and the same are hereby continued, from and after the expiration thereof, unto the tenth day of June which shall be in the year of our Lord one thousand seven hundred and forty seven, and no longer.

CHAP. IX.

An Act, for amending an Act, intituled, An Act, for laying an Imposition upon Skins and Furs, for the better Support of the College of William and Mary, in Virginia.

Preamble.

I. **W**HEREAS, by an act of Assembly made in the fourth year of the reign of Queen Anne, intituled, *an act, for laying an imposition upon skins*

and furs, for the better support of the college of William and Mary, in Virginia, a duty of three pence upon every raw hide, and six pence upon every tanned hide, exported, or carried out of this colony by land or water, was laid and appropriated to the use of the said college; which was confirmed by another act, passed in the eighth year of his present majesty's reign, intituled, an act, for the better support and encouragement of the college of William and Mary, in Virginia: And whereas the revenue arising by the said duty upon hides, has, by experience, been found insufficient to answer the purposes for which the same was laid, and disproportionate to the real value of hides;

II. Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this act, one Additional duty on furs and skins, for Wm. and Mary college. *other duty or custom of two shillings and six pence for every raw hide, and five shillings for every tanned hide, exported, or carried out of this colony by water or by land, to any port or place whatsoever, shall be paid, by the owner or exporter thereof; to be entered, collected, paid, and accounted for, in the same manner and under the same penalties, and appropriated to the same uses, as the duties upon skins and furs are, by the said recited acts, directed to be collected, entered paid, accounted for, and appropriated.*

CHAP. X.

An Act, to amend the Act, declaring the law concerning Attachments; and for altering the Court days in the counties of Accomack and Amelia.

I. Preamble. **W**HEREAS, by an act of the General Assembly of this colony, made in the twelfth year of his present majesty's reign, intituled, *an act, declaring the law concerning attachments; and for altering the court days in the counties of Accomack and Amelia*, reciting, that by one clause of an act of Assembly, made in the ninth year of the late queen Anne, intituled, *an act, for establishing county courts, and regulating and settling their proceedings*, therein it was enacted, that it should and might be lawful for any

justice of the peace, upon complaint made to him by any person, that his debtor was removing himself privately, or absconded and concealed himself, so that the ordinary process of law could not be served against him, to grant an attachment against the estate of such debtor, or for so much thereof as should be of value sufficient to satisfy the debt of the party praying such attachment, returnable to the next county court; but sometimes, from a misconstruction of the said clause, it was adjudged not to extend to any debts due or owing from any person or persons, to the person so absconded or concealed; but that in such cases, bills in chancery should be exhibited, for recovery of the same; which must necessarily be attended with great expence and delay; and different opinions, at times, had prevailed in many county courts of this colony, touching the same: For prevention whereof, it is, by the first mentioned act, enacted, That when any person shall obtain any attachment for debt, returnable as aforesaid, directed to the sheriff, or other proper officer of the county, that it shall and may be lawful for such sheriff, or other proper officer, to levy the same in the hands of any person or persons, indebted to the person so absconding, to and for the use of the person complaining, as he might or could have done on any other part of his estate; and the sheriff or other officer shall summon such garnishee or garnishees, to appear at the next court to be held for the said county, there to testify, on oath, what he or she is indebted unto such person, as in the said act more fully is contained. And whereas, from the words of the said act, it hath been adjudged, that the said attachments may be directed to and served by a constable; which opinion may introduce hardships and losses, constables in this colony giving no security for the performance of their office, and being commonly persons in low circumstances: For remedy whereof,

Attachments
by whom to
be served.

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That for the future, no attachment for debt, to be obtained and returned as aforesaid, shall be directed to, or served, by any constable, where the debt shall be of the value of twenty shillings sterling, or two hundred pounds of tobacco, or upwards; but the same shall be*

directed to, and served, by the sheriff, or his undersheriff, unless in cases where the sheriff is a party interested, and then the same shall be directed to and served by a coroner. Any thing in the said act to the contrary, or seeming to the contrary, in any wise, notwithstanding.

III. *Provided always*, That nothing in this act contained, shall be construed, deemed, or taken, to extend Proviso. to attachments to be issued, pursuant to the act, made in the tenth year of the reign of his present majesty intituled, *an act, for preventing persons, contracting small debts, to remove their effects out of the county where they reside; and for allowing a lawyer's fee in some cases, upon recoveries had upon petitions; nor to restrain any constable from executing or serving such attachments.*

IV. *Provided also*, That where attachments have been served by any constable, and suits upon such attachments are now depending before any court within this colony, it shall be lawful for the said Court, to proceed and give judgment upon such attachments, as if the same had been served by the sheriff. Proviso

CHAP. XI.

An Act, to amend an Act, intituled An Act, to prevent frivolous and vexatious suits; and to regulate Attornies practising in the County Courts.

I. **W**HEREAS in and by one act of Assembly, made at a General Assembly, begun and held at the Capitol, the first day of February, in the first year of the reign of our Sovereign Lord George the second; and from thence continued, by several prorogations, to the sixteenth day of May, one thousand seven hundred and thirty two, it is, amongst other things, enacted, That in all actions of assault and battery, wherein the court, before whom the trial shall be, shall not be satisfied, and enter upon record, that the battery was sufficiently proved, if the jury find under forty shillings, the plaintiff shall not recover more costs than damages; and in case the jury shall find damages to exceed that sum, that then, and in such case, full costs shall be awarded. And whereas very many vexatious

and litigious actions have been brought, as well in the general court of this colony, as in the several county courts; and altho' small damages have been given, yet, the battery being proved, the plaintiff hath recovered full costs: For prevention whereof,

In assault
and battery
and slander,
when plain-
tiff not to re-
cover costs.

II. *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That* from and after the publication of this act, in all actions of assault and battery, and slander, commenced and prosecuted in the general court, if the jury find under the sum of five pounds; and in the like actions commenced and prosecuted in the county courts, if the jury find under forty shillings, the plaintiff in either case, shall not recover any costs.

III. *And be it further enacted, by the authority aforesaid, That* the said in part recited act, as to so much thereof as relates to any thing within the purview of this act, be, and the same is hereby repealed, and made void.

IV. And whereas a practice has of late been introduced, of taking Bonds, commonly called judgment bonds, with condition, for the payment of money, and a general power to any attorney, to appear, and suffer judgment to pass against the obligor, in any court of Record in this colony, in such manner as the attorney thinks proper, thereby ratifying the same, and releasing all errors, either in the proceedings, or record of the judgment; which practice must be attended with ill consequences, debtors having no previous notice of the time and place of rendering such judgments, whereby they are deprived of an opportunity of making discounts appear against the bond, and are first put to unnecessary law charges, and then obliged to enter into expensive Chancery Suits for relief: For remedy whereof,

Power of at-
torney to
confess judg-
ments void.

V. *Be it further enacted, by the authority aforesaid, That* from henceforth, all powers of attorney, for confessing or suffering judgment to pass by default, or otherwise, and general releases of error to be made or given, by any person or persons whatsoever in this colony, before action brought, shall be, and they are hereby declared to be absolutely null and void; and if any attorney shall presume to appear for a defendant under such power, he shall, for every offence, forfeit and pay

the sum of five hundred pounds, to such defendant: To be recovered, with costs, by action of debt, or information, in any court of record within this colony and dominion; and moreover shall be liable to an action for damages, to the party grieved.

VI. *And be it further enacted*, That before any Injunction in chancery shall be granted, to stay proceedings at law on any action, suit, or judgment whatsoever, in any court of record in this colony, the party praying such judgment, if the court shall not be otherwise satisfied with the matter of equity, shall make Oath, before the court, or before some magistrate, of the truth of the allegations of his injunction bill; which affidavit shall be certified at the foot of the bill: And he, she, or they, shall moreover enter into bond, with one or more sufficient security or securities, in the clerk's office, for satisfying and paying all such sum or sums of money and tobacco, and costs, which shall be then due, or shall become due, to the plaintiff or plaintiffs, in the action, suit, or judgment, so to be stayed; and also for the payment of such costs as shall be awarded against him, her, or them, in case the injunction shall be dissolved.

Injunctions,
how granted.

VII. *And be it further enacted*, That no injunction shall be granted from the general court, to stay the proceedings of any suit, commenced in the county court, unless the matter in dispute in the county court be of value sufficient to admit of an appeal to the general court.

CHAP. XII.

An Act, to establish and confirm the bounds and title of Lands, held, in the town of Suffolk, in the county of Nansemond.

I. **WHEREAS**, by an act of the General Assembly, made in the fifteenth year of his present majesty's reign, intituled, *an act for erecting a town at Constance's warehouse, in the county of Nansemond*, it is enacted, that within eight months after the passing of the said act, fifty acres of land, parcel of a tract of land belonging to Jethro Sumner, of the said coun-

ty, gent. lying and being at and near a place called Constance's Warehouse, on the east side of Nansemond river, in the county of Nansemond, where the public warehouses are built, be laid out, from the river, between two creeks, or guts, one below the warehouse, and the other above by the surveyor of the said county of Nansemond, to include the warehouses aforesaid; and the said fifty acres of land is thereby vested in certain trustees, in the said act named, in trust, to be laid out in lots and streets, and sold, and for other purposes in the said act mentioned; the said town to be called by the name of Suffolk: And the trustees and directors were to pay unto the said Jethro Sumner, out of the money arising by the sale of the said lots, three pounds, for every acre of the said fifty acres of land, except the lots therein mentioned to be laid off, for the use of the said Sumner; and that all the overplus money, which should be raised by the sale of the said lots, should be applied to public uses, for the benefit of the inhabitants of the said town.

II. And whereas, after the passing of the said act, John Milner, surveyor of the said county of Nansemond, did survey and lay out the said fifty acres of land, for the said town of Suffolk, according to the directions of the said act; and divided the same into lots and streets, and returned a plan thereof unto the said trustees, who made sale of the said lots; and have paid unto the said Jethro Sumner, three pounds for every acre of the said fifty acres, vested in them, before the time mentioned in the act aforesaid except the lots in that act excepted.

III. And whereas it was the true intent and meaning of the said act of Assembly, that the aforesaid three pounds for each acre of the said fifty acres of land, as aforesaid, to be paid by the trustees to the said Jethro Sumner, should be the full consideration for the absolute fee simple estate of the said land, laid out for the town of Suffolk, as aforesaid; yet now it doth appear that the said Jethro Sumner was not seised of the fee simple estate of the said fifty acres of land, at the time of passing the act aforesaid: But that he was only seised of a freehold estate, for life, of and in one moiety or half part thereof, in right of his wife

Margaret, as one of the two sisters and co-heirs of Daniel Sullivan, jun. deceased, who was only son and heir of Daniel Sullivan, late of the said county of Nansemond, also deceased; and was seised, with the said Margaret his wife, of the other moiety or half part thereof, by a conveyance, made unto the said Jethro Sumner and Margaret his wife, and their heirs and assigns, by Bridget Sumner, the other sister, and co-heir of the said Daniel Sullivan, jun. acknowledged and recorded in the county court of Nansemond aforesaid, the twenty second day of December, one thousand seven hundred and thirty six: By means whereof, divers and sundry controversies and disputes subsist, and law suits are likely to arise between the purchasers and freeholders of the said town, and the trustees and directors thereof, concerning the titles of their several purchases, in the said town of Suffolk: to the great discouragement of trade and navigation therein. And whereas Margaret, wife of the said Jethro, hath now consented, that all her right, title, and interest, in the aforesaid lands, shall be vested in the said trustees, for the further consideration of one hundred pounds current money of this colony: Therefore, for removing all doubts and controversies concerning the same,

IV. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted by the authority of the same,* That the bounds of the said town of Suffolk, as the same is laid off by the said John Milner, surveyor, according to the said act of Assembly, be established and held firm for ever; and that all and every person or persons, who have already purchased, or who hereafter shall purchase, from the trustees of the said town of Suffolk, any lot or lots therein, he or they, and his or their heirs or assigns, respectively, shall, and may for ever hereafter, peaceably and quietly, have, hold, possess, and enjoy the same, according to the intent and meaning of the aforesaid act of Assembly, freed and discharged of and from all the right, title, estate, claim, interest, and demand whatsoever, of the said Jethro Sumner, and Margaret his wife, or either of them, and their, or either of their heirs or assigns; and of all other person or persons whatsoever, claiming under him, her, or them, or any of them.

Boundaries
of Suffolk
established.

Provision for
the wife of
Jethro Sum-
ner.

V. *And be it further enacted, by the authority aforesaid,* That the said Jethro Sumner, and his heirs shall be deemed and taken, and they are hereby declared to be and stand trustee or trustees, for and to the use of the said Margaret his wife, her heirs and assigns, of such part of the consideration money aforesaid, paid by the trustees of the said town of Suffolk, unto him in proportion to her right in the land aforesaid.

VI. And whereas the said trustees by virtue of the aforesaid act of Assembly, sold and disposed of the lots in the aforesaid town of Suffolk, for the sum of two hundred and five pounds more than the consideration mentioned to be paid to the said Jethro Sumner, one hundred and five pounds of which, has been expended in building a wharf and other public services, for the benefit of the said town; and there still remains one hundred pounds unappropriated;

VII. *Be it therefore enacted, by the authority aforesaid,* That the said trustees, and their successors, in trust, shall satisfy and pay unto the said Jethro Sumner, his heirs or assigns, within six months from the time of passing this act, the sum of one hundred pounds, unappropriated as aforesaid: And moreover, that the lots, laid off in the aforesaid town of Suffolk, and assigned unto the said Jethro Sumner, pursuant to the directions of the said act of Assembly, shall be vested in the said Jethro Sumner, and Margaret his wife; and they shall remain seised of the same estate, as they had therein, before the making the act aforesaid. Any thing in the said act to the contrary, or seeming to the contrary, in any wise, notwithstanding.

CHAP. XIII.

An Act, to amend an Act, intituled, An Act, for settling some doubts and differences of opinion, in relation to the benefit of Clergy; for allowing the same to Women, and taking away of Reading; and to disable certain persons therein mentioned to be Witnesses.

I. **W**HEREAS, by the act of Assembly, made in the fifth and sixth years of the reign of his present majesty, intituled, *an act for settling some doubts and differences of opinion, in relation to the benefit of*

clergy; for allowing the same to women, and taking away of reading; and to disable certain persons therein mentioned to be witnesses, it is, amongst other things enacted, that no negro, mulatto, or Indian, either a slave or free, shall thereafter, be admitted, in any court of this colony, to be sworn as a witness, or give evidence in any cause whatsoever, except upon the trial of a slave for a capital offence: And whereas many free negroes, Indians, and mulattoes, avoid the payment of their just debts, by reason of other free negroes, mulattoes, and Indians, not being admitted as witnesses, and suffered to give evidence in civil causes; to the great loss and prejudice of honest creditors:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same,* That from and after the passing of this act, any free negro, mulatto, or Indian, being a christian, shall be admitted, in any court of this colony, or before any justice of peace, to be sworn as a witness, and give evidence, for or against any other negro, mulatto, or Indian, whether slave or free, in all causes whatsoever, as well civil as criminal. Any law, custom, or usage, to the contrary, in any wise, notwithstanding.

Free negroes, mulattoes, and Indians, when witnesses.

CHAP. XIV.

An Act, for amending the Act, entituled, An Act, for settling the titles and bounds of Lands; and for preventing unlawful shooting and ranging thereupon.

I. **W**HEREAS, by one act of Assembly, made in the ninth year of the late queen Anne, intituled, *an act, for settling the titles and bounds of lands; and for preventing unlawful shooting and ranging thereupon,* it is, amongst other things enacted, that if the owner of any lands shall refuse to suffer his lands to be processioned, pursuant to the directions of the said act; that then, and in such case, the two freeholders, appointed to procession the same, shall, within ten days after such refusal, certify the same, under their hands, to the churchwardens of the parish wherein the said lands shall lie, who shall carry the said certificate to the next sitting of the court from which the order, for

processioning the said lands, did issue; which said court shall order the surveyor of their county, with a jury, to lay out and procession the lands of the person refusing to suffer his lands to be processioned, at the charge of the person so refusing: And whereas, frequent disputes do arise, between persons whose lands lie contiguous, concerning their respective bounds, upon which, the procession is stopped; and in every such case, the freeholders, appointed to procession the same, do return a certificate only of one person's refusal, at whose expence, the courts, to which such certificates have been returned, from a misconstruction of the said act, have ordered the surveyor of their county, with a jury, to lay out and procession such controverted bounds; although it is very reasonable that the expence should be born by the person against whom the bounds, so in dispute, shall be determined: Therefore,

Disputed
bounds of
lands at
whose costs
to be laid out.

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That when any controversy shall hereafter happen, between persons whose lands lie contiguous, about their respective bounds, the freeholders, appointed to procession the same, shall return a certificate thereof, in the manner directed by the said act; and the court of the county, to which such certificate shall be returned, shall order their surveyor, with a jury, to lay out the bounds so in dispute, at the charge of the person against whom the right, to such bounds, shall be determined.

CHAP. XV.

An Act, for continuing the Act intituled, an Act, for the better regulating and collecting certain officers fees; and other purposes therein mentioned.

I. **W**HEREAS the act made in the twelfth year of the reign of his present majesty, intituled, *an act, for the better regulating and collecting certain officers fees; and other purposes therein mentioned,* will expire at the end of the present session of Assembly; and it is necessary the same should be continued:

II. *Be it therefore enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That the said act shall continue, and be in force, from and after the expiration thereof, for and during the term of three years and no longer.*

Former acts
for fees con-
tinued.

CHAP. XVI.

In Act, for continuing and amending the Act, for preventing losses from drivers, passing with cattle through this colony; and for laying a duty on horses.

I. **W**HEREAS the act of Assembly, made in the fifteenth year of the reign, of his present majesty, intituled, *an act for preventing losses from drivers, passing with cattle through this colony; and for laying a duty on horses imported*, hath been found by experience, to be of great advantage to the inhabitants of this colony:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That the said act of Assembly shall continue and be enforced from and after the expiration thereof, for and during the term of four years, from thence next following, and no longer.*

Former act
continued.

III. And whereas the crime and offence of stealing of horses is, of late years much increased, especially in the frontier counties of this colony; to the great detriment and loss of many of his majesty's good subjects, occasioned for want of due prosecution and punishment of offenders therein; and for want of encouragement to such persons as shall vigorously endeavour the apprehending of such malefactors: For preventing whereof,

IV. *Be it further enacted, by the authority aforesaid, That from and after the first day of November next, all and every person and persons, who shall apprehend and take any person, guilty of the stealing of an horse, and shall prosecute him, her, or them, so apprehended and taken, until he, she, or they, be convicted thereof; such apprehenders or takers, for his, her, or their reward, shall have and receive the sum of ten pounds,*

Reward for
apprehend-
ing horse
stealers.

within two months after such conviction; to be paid by the treasurer of this colony for the time being, he, she, or they, tendering to the said treasurer, under the hand of the clerk of the general court, or court of oyer and terminer, a certificate of the conviction of such felon or felons, for the said offence, and in what parish the same was committed; and also that such felon or felons, was or were taken, by the person or persons claiming the said reward: And in case any dispute shall arise, between the parties so apprehending the said felons, touching the right and title to the said reward, that then the judges of the general court or court of oyer and terminer, before whom the felon or felons shall be convicted, respectively, shall in and by the said certificate, direct and appoint the said reward to be paid, to and amongst the parties claiming the same, in such shares and proportions, as to the said judges shall seem reasonable. And in case any person or persons shall happen to be killed, by any such horse-stealer or horse-stealers, endeavouring to apprehend, or making pursuit after him or them; that then the executors or administrators, or such person or persons to whom the right of the administration of the personal estate of such person so killed, shall belong, upon certificate delivered, under the hands and seals of two justices of the peace, of the county where the fact was committed, of such person's being so killed, (which certificate the said justices upon sufficient proof before them made, are required immediately to give,) shall receive the sum of fifty pounds; to be paid by the said treasurer.

V. And forasmuch as the said felons are much encouraged to steal horses, because a great number of persons make a trade to receive and buy of the said felons, the horses so by them feloniously taken; and also do make it their business to conceal the said offenders after the said facts, knowing the said felonies to be by them committed:

Receivers of
stolen hor-
ses.

VI. *Be it therefore enacted, by the authority afore-said, That if any person or persons shall receive or buy any horse, that shall be feloniously taken or stolen from any other person, knowing the same to be stolen; or shall receive, harbour, or conceal any horse-stealer, knowing him to be so, shall be taken and received as accessory or accessories to the said felony; and being*

of either of the said offences legally convicted, by the testimony of one or more credible witnesses, shall suffer and incur the pains of death, as a felon convict.

VII. *Provided always*, That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence; yet, nevertheless, it shall and may be lawful, to prosecute and punish every such person and persons buying or receiving any horses, stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor; to be punished by fine and imprisonment, or other such corporal punishment, as the court shall think fit to inflict, although the principal felon be not before convict of the said felony; which shall exempt the offender from being punished as accessory, if such principal felon shall be afterwards taken and convicted.

Accessories
when pun-
ishable.

CHAP. XVII.

An Act, for continuing the Act, for altering the method of trial of certain criminals therein mentioned.

I. **W**HEREAS the act of Assembly, made in the twelfth year of the reign of his present majesty, intituled, an act, for altering the method of trial of certain criminals therein mentioned, will expire at the end of this present session of Assembly; and it being necessary and expedient, that the same should be further continued,

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, That the said recited act shall continue and be in force, from and after the expiration thereof, for and during the term of seven years, from thence next following and no longer.

Act for trial
of criminals
continued.

CHAP. XVIII.

An Act, for appointing several new Ferries.

I. **B**E it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the

Ferries esta-
blished.

same, That public ferries be constantly kept, at the places herein after named: and that the rates for passing the said ferries, be as follows, to wit,

From Charles Lynch's plantation, in Goochland county, on the Northanna, across the said river, to the land of the said Charles Lynch, the price for a man, three pence, and for a horse, three pence.

From the land of Mr. Benjamin Cocke, in the said county, across the said river, to the land of the said Benjamin Cocke, the price for a man, three pence, and for a horse, three pence.

From the land of Ashford Hughes, on the north side of James river, near the mouth of Willis's creek, in the said county, across the said river, to the land of Robert Carter; and from the said Robert Carter's, to the said Ashford Hughes's, the price for a man, three pence, and for a horse, three pence.

On Rappahannock, from the lot of Joseph Morton, in Leeds town, over the river, to the land of Mrs. Sarah Brooke, the price for a man, eight pence, and for a horse, eight pence.

From Jesse Ball's plantation, in Lancaster county, known by the name of Fox's old plantation, across the river, to a plantation of Mr. Corbin, in Middlesex county, known by the name of Weeks's, the price for a man, one shilling and six pence, and for a horse, one shilling and six pence.

On Patowmack river, from Evan Watkins's landing, opposite to the mouth of Canagochego creek, to Edmund Wade's land, in Maryland. the price for a man, three pence, and for a horse, three pence.

From the lot of Lemuel Reddick, gent. adjoining to the public wharf, in Suffolk, across Nansemond river, to Samuel Jourdan's land, opposite thereto, the price for a man, four pence, and for a horse, four pence.

Rates.

II. And the courts of the several counties, wherein such ferries shall be kept, shall have power to appoint proper boats to be kept at the said ferries, for the convenient transportation of coaches, waggons, and other wheel carriages, that when any such boats shall be so provided and kept, it shall and may be lawful for the keepers of such ferries, to demand and take, for the ferriage of such wheel carriages, the following rates, to wit. for every coach, chariot, or waggon, and the driver thereof, the same as for the carriage of six horses;

And for every cart, or four wheel chaise, and the driver of such chaise, the same as for the ferriage of four horses: And for every two wheeled chair or chaise, the same as for the ferriage of two horses; according to the rates herein before settled at such ferries, respectively, and no more. And that the licences for keeping the said ferries, shall be obtained in the same manner, and the keepers thereof have such exemptions and advantages, and be under the like regulations and restrictions, as is and are by law provided, for and in respect of the keepers of public ferries, heretofore settled and appointed.

CHAP. XIX.

An Act, to empower the Vestry of the parish of Stratton Major, in the county of King and Queen, to sell the glebe of the said parish; and to purchase a more convenient glebe, in lieu thereof.

I. **W**HEREAS, the glebe of the parish of Stratton-Major, in the county of King and Queen, is not a good and sufficient glebe, within the meaning of the act of Assembly, for the better support and maintenance of the clergy of this dominion; and, of late years, hath been of little advantage to the minister of the said parish: Vestry of Stratton Major in King and Queen authorised to sell glebe.

II. *Be it therefore enacted, by the Lieutenant Governor, Council and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said Glebe Land, belonging to the said parish of Stratton-Major, containing about one hundred and seventy acres, be, and is hereby vested in the present vestry of the said parish, and the vestry of the said parish for the time being, in trust: Nevertheless, that the said vestry, or the greater part of them, shall, by deed of bargain and sale, indented, and duly recorded, convey the said glebe, with the appurtenances, for a valuable consideration of money, bona fide received, to such person or persons, as shall be willing to purchase the same; to hold to such purchaser or purchasers, or his or their heirs or assigns, forever.*

And the money arising by such sale, shall be by them laid out and applied, towards purchasing a good and convenient glebe, for the use and benefit of the minister of the said parish, for the time being for ever.

CHAP. XX.

An Act, for enabling the justices of Prince William and Fairfax counties, to levy tobacco on the said counties, to support Occoquan ferry.

Occoquan
ferry, how
supported.

I. **W**HEREAS the ferry, across Occoquan river, from the lands of Mrs. Anne Mason, widow, in the county of Prince William, to the lands of the said Anne Mason, in the county of Fairfax, hath been found to be very convenient to the people of each county; and was always, till the said county of Prince William was divided, maintained at the expence of the said county: But since the division thereof, the justices of each of the said counties, have refused to make an annual charge thereof in their levy, the laws in that case being deficient:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That the justices of the said counties of Prince William and Fairfax, be, and they are hereby authorized and empowered, respectively, to contract and agree with Mrs. Anne Mason, or any other person or persons for the keeping and maintaining the said ferry, in such manner as to them shall seem most proper; and to levy the expence thereof, upon the tithables in each of the respective counties, in such proportions as they shall think most for the ease and benefit of the people: And all and every contract, agreement, and order, by them made, from time to time, concerning the same, shall be good, binding, and available, against themselves, and their successors, and all other persons whatsoever.*

CHAP. XXI.

An Act, to prevent the inhabitants of Tappahanock town, from raising and keeping hogs at large within the said Town.

I. **W**HEREAS it hath been represented to this General Assembly, that great numbers of hogs are raised by some of the inhabitants of the Town of Tappahanock, and kept running at large; to the great prejudice of other persons residing therein, and in the neighbourhood thereof: Hogs not to run at large in Tappahanock.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the first day of January next ensuing, it shall not be lawful, for any person or persons, inhabiting within the said town, to raise or keep any swine within the limits thereof, and suffer the same to go or run at large within the said town: And if any swine, so raised and kept, shall be found going or running at large within the limits of the said town, it shall and may be lawful for any person whatsoever, to kill and destroy the same.*

III. *Provided nevertheless, That such person shall not convert any swine so killed, to his or her own use; but shall leave the same in the place where it shall be so killed, and give immediate notice to the owner thereof, if known; and if not, then to the next justice of the peace, who may order the same to the use of any poor person or persons he shall think fit.*

IV. *Provided also, That nothing in this act containing, shall be construed to hinder any person from driving swine to or through the said town, or the limits thereof, in order to sell or kill the same; or in their removal from one plantation to another.*

CHAP. XXII.

An Act, to oblige the Surveyors of the counties of Albemarle, Augusta, Frederick, and Louisa, to reside in the respective counties whereof they are Surveyors.

I. **W**HEREAS the counties of Albemarle, Augusta, Frederick, and Louisa, contain large quan-

tities of unpatented lands still to take up; and whereas it hath been found, by experience, that many controversies and disputes have arisen, and daily arise, among people in those counties where any such lands are, about priority of entries, especially where the surveyor of such county doth not actually reside therein, he often times deputing other persons to take entries; and many times it so happens, that entries have been made with such deputy, and with the surveyor himself, for the same land, by different persons: For preventing any such disputes and controversies for the future, and for the greater ease and conveniency of the people, in repairing from time to time, to the respective surveyors of such counties, and for the better ascertaining the right of any such entries;

Surveyors of
Albemarle,
Augusta,
Frederick
and Louisa
to reside in
their coun-
ties.

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this act, there shall be but one surveyor, with whom entries for land shall be made, for each of the said counties of Albemarle, Augusta, Frederick, and Louisa; and such surveyor shall be resident in such county, respectively, whereof he is surveyor, during the time he shall continue in office: And that no person now appointed, or who shall hereafter be appointed surveyor of either of the said counties, shall take upon him to nominate, authorize, or depute any person whatsoever, to take entries for any land in the county whereof he is made surveyor; nor shall take any entries, or make any surveys in such county himself, until he is actually a resident therein. And that all entries by such deputy or surveyor taken, and all surveys by him made, before such residence in the county where the lands to be entered or surveyed shall lie, shall be, and is hereby declared illegal and void.*

CHAP. XXIII.

An Act, for dividing the Parishes of St. John, and St. Margaret; and for other purposes therein mentioned.

Parishes of
St. John and

I. **W**HEREAS, by reason of the large extent of the parish of Saint Margaret, in the counties of

King William and Caroline, and of the inconvenient situation of the churches in the said parish, the inhabitants thereof labour under divers inconveniences; and whereas the inhabitants of the lower part of the said parish, and of the upper part of Saint John's parish, in the county of King William, have, by their humble suit to this Assembly, prayed, that they may be divided from their respective parishes, and be united and erected into one distinct middle parish: Therefore, for making the same more convenient for the future,

St. Margaret in King William and Caroline divided.

II. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same,* That all that part of the said parish of Saint Margaret, situate above Caroline county line, shall be esteemed one distinct parish, and retain the name of Saint Margaret's parish; and that all that part of the said parish of Saint John, below a line to be run from the upper end of the plantation, known by the name of Viccary's on Mattapony river, to the mouth of Mancuen creek, on Pamunkey river, be esteemed one distinct parish, and retain the name of Saint John's parish; and that all that other part of the said parish of Saint John, above the said line, together with that part of the said parish of Saint Margaret, below Caroline county line, from and after the first day of January next, be united and erected into one other distinct parish; and be called and known by the name of St. David's parish.

St. David's formed.

III. And for the ordering all parochial affairs in the said parish of St. David, *Be it further enacted, by the authority aforesaid,* That the freeholders and housekeepers of the said parish of St. David, shall meet, at some convenient time and place, to be appointed, and publickly advertised, by the sheriff of the said county of King William, before the first day of February next following, and then and there elect twelve of the most able and discreet persons of their parish, to be the vestrymen of the said parish; which said vestrymen so elected, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be the vestrymen of the said parish.

IV. And whereas the vestry of the said parish of Saint John, hath lately levied, upon the tithables of

the said parish, forty seven thousand seven hundred and ninety pounds of tobacco, for building a new glebe-house; and it is reasonable that that part of the said parish which will be included within the said parish of St. David, should be re-imbursed their proportional part of the said tobacco:

V. *Be it therefore further enacted*, That the vestry of the said parish of St. John, do repay unto the vestry of the said parish of St. David, so much tobacco as was assessed and levied upon the inhabitants of that part of the said parish; to the end, the vestry of the said parish of St. David may apply the same towards lessening the levy by the poll, on the tithables included within that part of the said parish.

VI. *Provided always*, That nothing in this act contained, shall be construed to hinder the collector or collectors of the said parishes of Saint John and Saint Margaret, respectively, as the same now stand undivided, to make distress for any levies, which shall be due from the inhabitants in the said parish of St. David, after the said first day of February, as by law they, or either of them, might have done, if this act had never been made. Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

VII. And whereas the vestry of the parish of Saint Margaret, have agreed to build a church in the said parish of St. David, without any assistance of the tithables, taken out of the parish of St. John;

VIII. *Be it therefore further enacted, by the authority aforesaid*, That it shall and may be lawful for the vestry of the said parish of Saint Margaret, and they are hereby required, within four years, next following, to levy and assess, on the tithables in the said parish, as the same stood undivided, such sum or sums of money or tobacco, as shall be sufficient, to build a church in the said parish of St. David, of the same dimensions as the said middle church; and the said money and tobacco, so levied and collected, to pay to the churchwardens of the said parish of St. David, to be by them applied towards building the said church: And in case any person or persons shall refuse to pay the said tobacco or money, levied on them by the vestry of the parish of St. Margaret, as aforesaid, the collector of the said parish, shall and may levy the same by distress.

CHAP. XXIV.

An Act, to confirm the lots of the town of Newcastle, to the purchasers thereof; and for other purposes therein mentioned.

I. **W**HEREAS David Crafford, late of the county of New Kent, deceased, being, in his lifetime, seised, in fee-simple, of, and in about four hundred acres of land, with the appurtenances, scituate, lying and being in the parish of St. Paul, then New Kent, now Hanover county, did, by deed, bearing date the twenty second day of April, one thousand six hundred and ninety three, for the consideration therein expressed, give, grant, and convey the same, to William Meriwether, gent. his grand-son, by the name and description of the plantation whereon he then lived, known by the name of Assasquin, and to the heirs of his body, for ever; and on failure of such heirs, to David Meriwether, and the heirs of his body; and on failure of such heirs, to Nicholas Meriwether, and Elizabeth his wife, and to the heirs of their bodies, for ever: By virtue whereof, the said William Meriwether entered into the said land and premises, with the appurtenances, and was thereof seised, in fee-tail; and hath lately laid off, in half acres or lots, forty acres, part thereof, and sold and conveyed the greatest part of the same to several persons, for the use of a town, called and known by the name of Newcastle, (not being apprehensive the said land was intailed,) and is much encreased and improved, and would become a town of great custom and trade, were not several trading people, who hold lots therein, afraid to make improvements thereon, until they can be assured of a good title thereto; which must tend very much to the increase of the value of the residue of the intailed lands adjoining the same, and prevent a great number of law suits which, it is probable, will be brought by the purchasers, against the said William Meriwether; and must necessarily impoverish the heir of the said William Meriwether, to whom the lands aforesaid are to descend.

II. And whereas the said William Meriwether is seised, in fee-simple, of and in forty acres of land, part of a greater tract, with the appurtenances, scituate, ly-

ing and being in the parish and county last mentioned, commonly called or known by the name of Poindexter's Neck; which said land, with the appurtenances, are of greater value than the said forty acres, so sold by the said William Meriwether, for the use aforesaid: And the said William Meriwether being desirous to make and secure a good and absolute title to the said purchasers, in and to the said forty acres of land, so sold, and laid out into half acres or lots, hath agreed, and is willing, that the said forty acres of land, with the appurtenances, known by the name of Poindexter's Neck, shall be settled to the same uses.

III. And forasmuch as notice hath been published three Sundays successively, at the church of the aforesaid parish of St. Paul, and county of Hanover, wherein the aforesaid forty acres of land doth lie, that application will be made to this General Assembly, to vest the said forty acres of land, with the appurtenances, in the said William Meriwether, in fee-simple, upon settling the aforesaid forty acres of land, called Poindexter's Neck, to the same uses as the said four hundred acres of land are settled, by the deed of the said David Crafford, pursuant to your majesty's instructions:

Newcastle,
town of, pur-
chasers from
Wm. Meri-
wether con-
firmed in
their titles.

IV. May it therefore please your excellent majesty, at the humble suit of the said William Meriwether, That it may be enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said forty acres of land, laid off in half acres or lots for the town aforesaid, parcel of the said four hundred acres so as aforesaid granted and conveyed, by the said David Crafford, be, and are hereby vested in the several persons who have heretofore purchased, or shall hereafter purchase any of the lots contained within the bounds of the said forty acres; to the only use and behoof of them the said several and respective purchasers, and their heirs and assigns, for ever. And that the said forty acres of land, part of the land called Poindexter's Neck, be, and are hereby vested in the said William Meriwether, to such use and uses, and for such estate and estates, and subject to the like limitations, as the said forty acres of land, parcel of the said four hundred acres, so as aforesaid granted by the said David Crafford, are, and stands limited, by the said deed. And the said William Meriwether, and all others claim-

ing under him, by virtue of the said deed, shall have, hold, and enjoy the aforesaid forty acres of land, called Poindexter's Neck, in the same manner as he, she, or they could or might have held or enjoyed the said forty acres of land, parcel of the said four hundred acres, by the said David Crafford granted and conveyed, in case the same had never been sold and conveyed as aforesaid, or as if this act had never been made, and not otherwise.

V. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person or persons, bodies politic and corporate, their respective heirs and successors, other than the person or persons claiming the said four hundred acres of land, under the deed of the said David Crafford, all such right, title, interest, estate, claim, and demand, as they, every, or any of them should, or might have had or claimed, if this act had never been made.

VI. *Provided always*, That the execution of this act shall be suspended, until his majesty's approbation thereof, shall be obtained.

CHAP. XXV.

An Act, for dividing the parish of Hamilton, in the county of Prince William, and erecting the same into two distinct parishes; and other purposes therein mentioned.

I. **W**HEREAS, by reason of the large extent of the parish of Hamilton, in the county of Prince William, the minister and inhabitants thereof labour under great difficulties and inconveniencies: For removal of which, for the future,

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the twenty fifth day of April next, the said parish of Hamilton shall be divided, by a line to be run from the dividing line of Stafford and Prince William counties, a straight course to the head of Dorrel's run; thence down the said run, to Cedar run; thence to the fork of Broad run, near the lower line of colonel Charles Carter's tract, called Broad run tract;

Hamilton parish in Prince William divided.

Dettingen
parish form-
ed.

thence to the mouth of Bull-Lick run, opposite to Jacob Smith's, in Fairfax county: And all that part of the said parish, scituate below the said line, to be erected into one distinct parish, and called by the name of Dettingen, and all that other part thereof, scituate above the said line, to be erected into one other distinct parish, and retain the name of Hamilton.

III. And for electing of vestrymen in the said parishes of Hamilton and Dettingen, the freeholders and house-keepers thereof shall meet, at some convenient time and place, to be appointed, and publickly advertised, by the sheriff of the said county of Prince William, before the twenty fifth day of May, next following, and then and there elect twelve of the most able and discreet persons of their parishes, to be vestrymen in each of the said parishes; which vestrymen so elected, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be vestries of the said parishes respectively. And the vestries of the said parishes respectively, are hereby impowered, and made capable to take, receive; and hold any lands, tenements, or hereditaments, to be purchased or given for a glebe or glebes, for the use of the ministers of the said parishes, for the time being, for ever.

IV. *Provided always*, That nothing herein contained, shall be construed to hinder the collector of the said parish of Hamilton, as the same now stands entire and undivided, from collecting or making distress for any parish levies, which shall remain unpaid by the inhabitants of the said parish of Hamilton, at the time of its taking place; but such collector shall have the same power to collect and distrain for the said levies, and shall be answerable for them, in the same manner, as if this act had never been made. Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

V. And whereas the glebe of the said parish of Hamilton, as it now stands, will be very inconvenient to either of the said parishes of Dettingen and Hamilton, after the said division; and it will be reasonable and just that the same should be sold, and the money arising by such sale, be equally paid and divided between the said two parishes of Dettingen and Hamilton, to be

applied towards the purchase of glebes, more convenient to each:

VI. *Be it therefore further enacted*, That the vestries of the said parishes, or the majority of the vestry of each of them, are hereby impowered and required, in a reasonable time, after the month of September, in the year of our Lord one thousand seven hundred and forty six, to sell and dispose of the said glebe, by public auction, to the highest bidder or bidders, for money or tobacco, having first given notice of the time and place of the said sale, by advertisement in the *Virginia Gazette*, and at the court-houses of King George, Stafford, Prince William, and Fairfax counties; and immediately after the receipt of such money or tobacco, to pay and allow one moiety thereof, to the vestry of the said parish of Dettingen, after the same shall take place; and the other moiety to the vestry of the said parish of Hamilton; to be applied by the said vestries, respectively, towards the purchase of a convenient glebe for each of the said parishes.

VII. *Provided always, and it is hereby enacted*, That the said glebe, as it now stands, shall be deemed and taken, and accordingly used by the present minister, as the parsonage house and glebe of the parish of Hamilton, until such sale; and that the said minister do keep the same in tenantable repair, without committing waste.

CHAP. XXVI.

An act for dividing the parish of Bath, in the county of Prince George, and adding part thereof to Bristol Parish.

I. **W**HEREAS the inhabitants of the parish of Bristol, in the county of Prince George, labour under great inconveniences, by reason of the small number of tithables in the same; and it is reasonable that part of the adjacent parish of Bath, in which there are a greater number of tithables, should be added and annexed to the said parish of Bristol:

Bath parish in Prince George divided, and part added to Bristol.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly; and it is hereby enacted, by the authority of*

same, That from and after the first day of May next ensuing, part of the said parish of Bath, be annexed to, and made part of the said parish of Bristol; and that the bounds thereof, for the future, be established in manner following; that is to say, by a line to begin at Appamattox River, on the east side of Wallace's Creek, thence a south course to Surry county line; which shall always hereafter, be reputed, deemed, and taken, to be the bounds between the said parishes.

III. *Provided always*, That nothing herein contained, shall be construed to hinder the collector of the said parish of Bath, as the same now stands entire and undivided, to make distress for any levies, which shall be due from the inhabitants of that part of the parish of Bath, now included in the parish of Bristol, after the said first day of May, as by law he might have done, if this act had never been made. Any law, usage, or custom, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXVII.

An Act, for obliging the parish of St. Martin to repay to the parish of Fredericksville, their proportion of four hundred and ninety six pounds, and ten thousand pounds of tobacco, levied on the said parish of St. Martin, before the division of the same.

Parish of St. Martin to repay certain monies, and tobaccos, to Fr. dericks-ville.

I. **W**HEREAS, by the act of Assembly made in the fifteenth year of the reign of his present majesty, For dividing the parish of St. Martin, in the county of Hanover, into two distinct parishes, it was enacted, That from and after the first day of December, then next following, the said parish of St. Martin should be divided, in such manner as by the said act was directed and declared; and that all that part of the said parish, scituate above the dividing line, to the westward thereof, should be erected into one distinct parish, and called and known by the name of Fredericksville.

II. And whereas the vestry of the said parish of St. Martin, sometime before the said division, levied upon the inhabitants thereof, as the same then stood undi-

vided, four hundred and ninety six pounds, current money, towards building a large new church; and immediately after passing the said act of Assembly, and before the same took place, the said vestry levied the sum of ten thousand pounds of tobacco, upon the said inhabitants, to be deposited in the hands of the collector, for the use of the said parish; and have refused to make any allowance to the vestry of the parish of Fredericksville, for the same:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the vestry of the said parish of St. Martin, shall, and they are hereby impowered and required, to levy upon the tithable persons of the said parish, as much money and tobacco as shall be sufficient, to reimburse the inhabitants of the said parish of Fredericksville, their proportionable part of the aforesaid sum of four hundred and ninety six pounds, and ten thousand pounds of tobacco; one half thereof at the laying their parish levy, in the year of our Lord one thousand seven hundred and forty five, and the remainder in the year next following; and shall pay the same unto the vestry of the said parish of Fredericksville, for the time being, to be by them applied to the use of the said parish.

CHAP. XXVIII.

An act, to enable the Common-Hall of the city of Williamsburg, to assess a tax on the inhabitants of the said city, for building a Prison; and for other purposes therein mentioned.

I. **W**HEREAS the mayor, recorder, aldermen, and common council of the city of Williamsburg, have represented to this General Assembly, that there is no prison belonging to their corporation, for the commitment of debtors, criminals, and offenders; but that the prison of James City county standing within the limits of the said city, hath hitherto been used for that purpose, on sufferance; which is attended with inconvenience both to the said county and city; and that they are desirous a prison should be built for the use of

Common hall of Williamsburg to lay a tax for building a prison.

the said city, at the charge of the inhabitants of the corporation: But it is a doubt, whether they have power, by their charter, to assess a tax on the said inhabitants, for that use, or for any other needful occasion of the city, when their chamber is deficient:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That it shall and may be lawful for the mayor, recorder, aldermen, and common council of the said city of Williamsburg, for the time being, in common-hall assembled, to levy and assess, by the poll, on the tithable persons inhabiting within the said city, all such sum and sums of money as shall be necessary, for erecting a prison for the use of the said city, if their chamber be deficient; and also to appoint a collector of the same. And if any person or persons shall refuse or neglect to satisfy and pay the money, so on him, her, or them levied and assessed, according to the times appointed for the payment thereof, it shall and may be lawful to and for such collector, by warrant from under the hand of any magistrate of the said city, to levy the money so due, by distress and sale of the delinquents goods, in the same manner as for non-payment of public and county levies, in this colony.

Counties of
James city
and York to
pay sergeant
and constables.

III. *And be it further enacted, by the authority aforesaid,* That the justices of the county of James City, and the justices of the county of York, for the time being, shall and they are hereby required, at the time of laying the levies for their respective counties, in every year, to levy, for the serjeant and constables of the said city, for the time being, so much tobacco as shall hereafter become due to them, for all such services done, and prison fees, arising within the said city, not already by law directed to be paid, as would properly be chargeable on the said counties, respectively, by the sherifs and constables thereof, in case the said city had not been incorporated.

CHAP. XXIX.

An Act, for giving a reward for killing Wolves, in the county of Frederick, to be levied on the inhabitants of the said county, by the Court; and for altering several court days.

I. **W**HEREAS, by the act of Assembly, passed in the twelfth year of his present majesty's reign, For erecting two new counties and parishes, and granting certain encouragements to the inhabitants thereof, the inhabitants of the counties of Frederick, and Augusta, are exempted from public levies for ten years, from the passing the said act; and no allowance is to be made for killing wolves within the limits of the said two counties: And whereas the inhabitants of Frederick county have made humble suit to this Assembly, to have a reward settled, to be levied on the tithable persons in that county, and applied in encouraging persons to destroy Wolves: Reward for killing wolves in Frederick.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the first day of November next, a reward of six shillings, for every old Wolf, and two shillings and six pence, for every young Wolf, killed within the county of Frederick, shall be paid, to the party obtaining certificate thereof, under the hand of a justice of peace of the said county, upon oath, and legal proof before him made. And the justices of the said county of Frederick, shall and may, annually, at the court held for laying their county levy, raise and levy, upon the tithable persons therein, the rewards due, upon such certificates, to the court produced; to be discharged in money or grain, at the rate to be settled by such court, from time to time, and to be paid to the persons, respectively, intituled thereto, at the next county court held after such levy laid, for and during the term of four years.*

III. And whereas the days appointed by law, for holding courts in the said county of Frederick, and the counties of Fairfax, and Louisa, are found to be inconvenient, as they are now settled; Court days of Frederick, Fairfax and Louisa altered. *Be it further enacted, by the authority aforesaid, That from and after the*

first day of December next, the court for the said county of Frederick, shall be held on the first Tuesday; and the court for the said county of Fairfax, on the third Tuesday; and the court for the said county of Louisa, on the fourth Tuesday in every month. Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXX.

An Act, for reviving the act, to empower the justices of Elizabeth City county, to erect pounds; and for other purposes therein mentioned.

Act authoris-
ing court of
Elizabeth ci-
ty to erect
pounds, re-
vived.

I. **W**HEREAS the act of Assembly, made in the fifteenth year of the reign of his present majesty, intituled, An Act, to empower the justices of Elizabeth-City county, to erect pounds; and for other purposes therein mentioned, is expired; and the same having been found very useful, and of great benefit to the inhabitants of the said county of Elizabeth-City, it is proper and expedient that it should be revived:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said recited act shall be, and the same is hereby revived; and shall continue and be in force, from the passing of this act, for the term of four years, next following, and no longer.*

CHAP. XXXI.

An Act, for dividing the county of Goochland; the parish of Saint James, in that county; and for other purposes therein mentioned.

I. **W**HEREAS divers inconveniences attend the upper inhabitants of Goochland county, by reason of their great distance from the court-house, and other places, usually appointed for public meetings:

Goochland
county, di-
vided.

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the*

same, That from and immediately after the last day of December next, the said county of Goochland be divided, by a line, to be run from the point of the fork of James river, north, thirty degrees, east to Louisa county line; and from the said point of the fork, a direct course to Brook's mill; and from thence, the same course continued, to Appomattox river: And that part of the said county which lies below the said line, be erected into one distinct county, and retain the name of Goochland; and all that other part thereof, above the said line, be one other distinct county, and called by the name of the county of Albemarle. And, for the due administration of justice,

Albemarle
formed.

III. *Be it further enacted, by the authority aforesaid,* That after the said last day of December, a court for the said county of Albemarle, be constantly held, by the justices thereof, on the fourth Thursday in every month, in such manner, as by the laws of this colony is provided, and shall be, by their commission, directed.

Court days.

IV. And whereas, by reason of the situation of the parish of Saint James, in the said county of Goochland, the minister and inhabitants thereof, do labour under divers inconveniences: For removal of which, for the future, *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the last day of December, the said parish of Saint James, shall be divided into three parishes; that is to say, all that part of the said parish that lies in the county of Albemarle, shall thereafter, be esteemed one distinct parish, and be called and known by the name of St. Anne's; and all that part of the said parish, which lies on the north side of James river, in the county of Goochland, aforesaid, shall be esteemed one distinct parish, and be called and known by the name of Saint James, Northam: And all that other part thereof, which lies on the south side of the said river, in the county aforesaid, shall be erected into one other distinct parish, and called and known by the name of Southam. And, for the better ordering of parochial affairs in the said parishes;

St. James's
parish divided into
three.

St. Anne's in
Albemarle.

St. James,
Northam, on
north side
James River.

Southam, on
south side
James River,
in Gooch-
land.

V. *Be it further enacted by the authority aforesaid,* That the free-holders and house-keepers in the said parishes, respectively, shall meet, at some convenient

time and place, to be appointed and publickly advertised, by the respective sherifs of the said counties of Goochland and Albemarle, before the twenty-fifth day of January next; and then and there elect twelve of the most able and discreet persons, of their respective parishes; which persons, so elected, having taken the oaths appointed to be taken by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be the vestries of the said parishes, respectively: Which said vestries are hereby empowered and made capable, to take receive, and hold any lands, tenements, or hereditaments, which shall be purchased or given, as a glebe or glebes, for the use of the minister of each parish, respectively, for the time being, for ever.

VI. And whereas one small tract of land, lying and being in the parish of Saint James, on the north side of James River, whereon Anthony Gavin Clerk now lives is appropriated for a glebe to that parish, which, when divided, will be in the parish of Saint James, Northam; and whereas the said tract of land is very inconveniently situated to those uses, and the making sale and disposition thereof, must redound to the interest of the said parish of Saint James, Northam, if the same can be effected; and the money arising by the sale thereof, applied towards purchasing a more convenient tract of land for that purpose:

VII. *Be it therefore enacted, by the authority aforesaid,* That the said tract of land, with the appurtenances, be, and are hereby vested in William Randolph, and Benjamin Cocke, gentlemen, of the parish of Saint James, Northam, and county of Goochland, in trust; that they shall sell, and, by deeds of bargain and sale, convey, for the best price that can be got for the same, the said tract of land, with the appurtenances, by such descriptions as they shall think fit and necessary, to any person or persons, who shall be willing to purchase the same; to hold to such purchaser or purchasers, in fee simple: And when the same shall be sold and conveyed, that the said William Randolph, and Benjamin Cocke, shall account with the vestry of the parish of St. James, Northam, when they shall be elected and qualified, as aforesaid, who shall receive the same, in trust, for applying the money arising by such sale,

towards the purchasing a more convenient tract of land for a glebe, for the use of the parson of the said parish, for the time being, for ever.

VIII. *Provided always*, That nothing herein contained, shall be construed to hinder the sheriff, collector, or collectors of the said county of Goochland, and parish of Saint James, as they now stand intire, and undivided, from making distress for any levies, fees, or other dues, which shall be due from the inhabitants of the said county and parish, after the said last day of December, in such manner, and not otherwise, as by law he, they, or either of them might have done, if this act had never been made. Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXXII.

An Act for dividing the upper parish in Nansemond county, and adding part thereof to Suffolk parish.

I. **W**HEREAS, by reason of the small number of tithables in the parish of Suffolk, in the county of Nansemond, occasioned by a division of that parish, from the upper parish, in the said county, at a time when the lands in the said upper parish, were not fully settled; but since the said division, great numbers of people have settled therein: And as the inhabitants of the said parish of Suffolk, are, for the most part, very poor, and the levies large and burthensome; for the better regulating of the said parishes,

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the twentieth day of November, next ensuing, part of the parish called the upper parish, in the said county of Nansemond, be annexed to, and made part of the parish of Suffolk; and that the bounds thereof, for the future, be established in manner following; that is to say, to begin at the head of Duke's creek, thence running down the said creek, to Nansemond river; thence down the said river, to the mouth of the Western branch; thence up the said Western branch its several courses, till it intersects Isle of Wight county line; which shall always hereaf-

Suffolk parish in Nansemond altered.

ter, be reputed, deemed, and taken, to be the bounds between the said parishes.

III. *Provided always*, That nothing herein contained, shall be construed to hinder the collector of the said upper parish, as the same now stands intire, and undivided, to make distress for any levies, which shall be due from the inhabitants below the said line, after the said twentieth day of November, as by law he might have done, if this act had never been made, Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXXIII.

An Act, to enable the Nottoway and Nansemond Indians to sell certain Lands; and for other purposes therein mentioned.

Nottoway, & Nansemond Indians authorised to sell certain lands.

I. **W**HEREAS, the Nottoway Indians are possessed of a large tract of land, of six miles square, lying and being on the south side of Nottoway river, in the county of Isle of Wight; and whereas that nation is of late reduced, by sickness, and other casualties, to a very small number, and among those that remain, many are old, and unable to labour or hunt; so that the whole of that large tract is more than they are able, in their present circumstances, to cultivate, or make any use of.

II. And whereas they have petitioned the honorable lieutenant-governor in council, to be enabled to sell part of the said tract, for the paiment of their debts, and the better support and maintenance of them and their posterity: And whereas the Nansemond nation of Indians, are likewise reduced to so small a number of men, that they cannot possibly subsist of themselves by hunting, which is their chief support, but have been obliged, for their conveniency and benefit, to cohabit with the Nottoway Indians, more than seven years past.

III. And forasmuch as they are also possessed of about three hundred acres of land, in the county of Nansemond, bounded by the county line, Nottoway river, and the land of one James Cary, which, for the reason aforesaid, is become entirely useless, and of no benefit to them; and have prayed for leave to sell the

same, and to be enabled to purchase other lands near the said Nottoways:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the chief men of the said Nottoway nation, be impowered, and they are hereby impowered, by and with the consent and approbation of James Baker, surveyor of the said county of Isle of Wight, John Parsons, and Richard Blow, junior, the survivors or survivor of them, who are hereby appointed trustees to see this act duly executed, to sell and convey, for the use and benefit of the said Nottoway nation, five thousand acres, part of their said tract of land, lying between the Western boundary of their said tract, and Buck-Horn swamp, for the best price that can be got, so as not to be under the rate of twelve pounds ten shillings, current money of this colony, for every hundred acres: *Provided,* That no part of the main swamp, called Buck-Horn, be included within any sale, so intended to be made: And the chiefs of the Nansemond Indians, are also hereby impowered, with the consent and approbation of the trustees aforementioned, to sell and convey the said three hundred acres of land, to them belonging, in the said county of Nansemond. And after any agreement made, for the sale of the said lands, or any part thereof, it shall and may be lawful for the said chief men of each of the said nations, together with the trustees aforesaid, or the survivors or survivor of them, to seal and deliver a feoffment, and to make livery and seisen upon the land, to be indorsed upon such feoffment, to the purchaser, who, immediately after the execution thereof, shall pay down, to the said trustees, for the uses and purposes herein expressed, the purchase money; for which, a receipt shall likewise be indorsed on the deed: And any feoffment so executed and perfected, and afterwards acknowledged, or proved by the oath of three witnesses; the feoffment made for the lands, sold by the chiefs of the Nottoway Indians, to be recorded in the court of the county of Isle of Wight, where their lands lie, and the feoffment made for the lands, sold by the chiefs of the Nansemond Indians, to be recorded in the court of the county of Nansemond, where their lands lie; shall be sufficient in law, to pass the fee-simple estate of

such lands, so by them sold; and the purchaser or purchasers thereof, his or their heirs or assigns, shall, for ever, hold and enjoy the same, freed and discharged from all claims of the said Nottoway and Nansemond nations, and their posterity. Any thing in one act of the General Assembly, made in the fourth year of the reign of the late Queen Anne, intituled, An act, for preventing of misunderstandings between tributary Indians, and other her majesty's subjects of this colony and dominion; and for a free and open trade with all Indians whatsoever; or in any other act of the General Assembly, contained, to the contrary hereof in any wise, notwithstanding.

V. *Provided always*, That the said trustees, or either of them, shall not, directly, or indirectly, purchase any dividend or parcel of the said land, from the said Indians, without the special approbation of the governor or commander in chief of this colony, for the time being, with the advice and consent of the council, first had and obtained. And if any purchase shall be made by the said trustees, or any other person or persons whatsoever, contrary to this act, the same shall be void, to all intents and purposes.

VI. *Provided also, and be it enacted*, That the purchaser or purchasers of such lands, his or their heirs or assigns, shall hold the same of his majesty, his heirs and successors, under the like quit-rents as are paid by persons obtaining grants for lands from his majesty.

VII. *And be it further enacted, by the authority aforesaid*, That the money arising by the sale of the lands belonging to the said Nottoway Indians, shall, by the said trustees, the survivors or survivor of them, be equally and fairly divided amongst the said Nottoway Indians, and the other Indians that are incorporated, and do now co-habit with them, (the Nansemond Indians excepted:) And the said trustees, and the survivors or survivor of them, are hereby impowered and required, to examine and settle the accounts and claims exhibited against any of the said Indians; and the same being duly proved, and appearing just, to pay and satisfy, out of the part or share of the money, due to the Indian or Indians, against whom such account or claim shall be exhibited.

VIII. *And be it further enacted, by the authority aforesaid.* That the money arising by the sale of the said three hundred acres of land, belonging to the said Nansemond Indians, shall, by the said trustees, be laid out, in the purchase of other lands, where they, the said Indians, shall think fit, for the use and occupation of them, and their posterity, for ever; to be held of the king, his heirs and successors, under the like rents and services, as they now hold the said three hundred acres of land.

IX. And whereas it hath been represented to this General Assembly, that the Indians of the said two nations, are very prone to drink spirits, and other strong liquors, to a very great excess, thereby giving ill disposed and dishonest people opportunities to make very great advantages of them, by first getting them in debt, and then taking their skins, money, cloaths, and ammunition; by which means they defeat the just trader from getting paid, for furnishing them with the necessaries of life: To prevent which,

X. *Be it enacted,* That from and after the passing of this act, no person whatsoever, shall sell on trust, to any Indian of either of the said nations, any quantity of spirits, or other strong liquors whatsoever: And if any person shall sell, on credit, to any such Indian, any spirits, or other strong liquors, he, she, or they, so trusting, shall be disabled to maintain suit, or recover judgment for the same, in any court of law, or before any magistrate within this colony. And if any person or persons, selling spirits, or other strong liquors, to any of the said Indians, shall presume to take any pledge or pawn whatsoever for the same; or shall sell such spirits or liquors for any other thing than ready money, he, she, or they, so offending, shall forfeit and pay the sum of twenty shillings, for every such offence, to the informer: To be recovered, with costs, before any justice of the peace of the county where the offence shall be committed; and if a question shall arise at the trial, the *onus probandi* shall lie on the defendant.

CHAP. XXXIV.

An Act, to prevent the building and repairing wooden chimnies, in the town of Richmond.

I. **F**ORASMUCH as it hath been represented to this Assembly, by the inhabitants of the town of Richmond, in the county of Henrico; that they are often in great and imminent danger of having their houses and effects burnt and consumed, by reason of many wooden chimnies in the said town:

Richmond,
town of,
wooden
chimnies not
to be built
in.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That it shall not, hereafter, be lawful for any person whatsoever, to erect or build, or cause to be erected or built, in the said town, any wooden chimney; neither shall it be lawful for any person whatsoever after the expiration of three years, after the passing of this act, to make use of any wooden chimney already erected in the said town: And the owners or proprietors of all such wooden chimnies as now are in the said town, shall, before the expiration of the time aforesaid, wholly destroy and disuse the same, or cause them to be pulled down; otherwise it shall be lawful for the sheriff of the said county of Henrico, and he is hereby required to cause all such wooden chimnies to be pulled down and demolished: And in like manner it shall be lawful for the said sherifs, and they are hereby required to cause to be pulled down and demolished, all other wooden chimnies, which shall be built and erected in the said town, in breach of this act.

CHAP. XXXV.

An Act, for dissolving the present Vestry of the Parish of Truro; and for appointing a new election of Vestrymen for the said Parish.

Vestry of
Truro parish
in Fairfax
dissolved,
and new ves-
try to be e-
lected.

I. **W**HEREAS, it is represented to this Assembly, that divers of the inhabitants of the parish of Truro, in the county of Fairfax, now do, and for several years past, have acted as vestrymen of the said parish, altho' many of them were never lawfully chosen or qualified; that several, pretending to act as vestrymen, are not able to read or write, and under a colour

of being lawfully chosen, have taken upon themselves to hold vestries, and imposed many hardships on the inhabitants of the said parish: For remedy whereof,

II. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That* the vestry, or pretended vestry of the said parish, is, and are hereby dissolved: And that all and every act and acts, thing and things, which at any time or times hereafter, shall or may be performed, suffered, or done by them, as a vestry, or pretended vestry of the said parish, shall be, and are hereby declared to be utterly void, to all intents and purposes whatsoever.

III. *Provided always, That* all and every levy and levies, heretofore laid, and all and every other act and thing, by the said vestry, or pretended vestry, done or suffered, shall be good, valid and effectual, in as full and ample manner, as the same would have been, if this act had not been made.

IV. *And be it further enacted, by the authority aforesaid, That* the freeholders and house-keepers of the said parish of Truro, shall meet, at some convenient time and place, to be appointed, and publickly advertised, by the sheriff of the said county of Fairfax, before the first day of February next; and then and there elect twelve of the most able and discreet persons of their parish, to be the vestrymen of the said parish: Which said vestrymen so elected, having taken the oaths appointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be the vestrymen of the said parish.

CHAP. XXXVI.

An Act, to oblige the inhabitants of Augusta County, to pay their proportion of the charge, for running the dividing line, between Augusta and Frederick counties.

I. **W**HEREAS, by an act of Assembly, made in the twelfth year of the reign of his present majesty, intituled, an act, for erecting two new counties and parishes; and granting certain encouragements

Inhabitants of Augusta to pay their proportion of expenses

of running
dividing line
between that
county and
Frederick.

to the inhabitants thereof; it is enacted, that all that tract or territory of land, then deemed to be part of the county of Orange, lying on the north west side of the Blue Ridge of mountains, extending from thence, northwardly, westerly, and southerly, beyond the same to the utmost limits of Virginia, should be separated from the rest of the said county, and erected into two distinct, counties and parishes; to be divided, by a line, to be run from the head spring of Hedgman river, to the head spring of the river Patowmack: And all that part of the said territory, lying on the north east of the said line, beyond the top of the said Blue Ridge, should be one distinct county and parish, to be called by the name of the county of Frederick, and parish of Frederick; and that the rest of the said territory lying on the other side of the said line, beyond the top of the said Blue Ridge, should be one other distinct county and parish, to be called by the name of the county of Augusta; and parish of Augusta. By which said recited act, it is provided, that the said new counties and parishes, should remain part of the county of Orange, and parish of Saint Mark, until it should be made appear, to the governor and council for the time being, that there was a sufficient number of inhabitants for appointing justices of the peace, and other officers, and erecting courts therein, for the due administration of justice; so that the inhabitants of the said counties, should be thenceforth exempted from the payment of all public, county, and parish levies, in the county of Orange, and Parish of Saint Mark.

II. And whereas there is a sufficient number of inhabitants in the said county of Frederick, and the governor and council have thought fit to appoint justices of the peace, and other officers, in the same; whereby the said county is become distinct and separate from the said county of Orange; and the court of the said county of Frederick, hath contracted with, and appointed the surveyor of the said county of Frederick, to run the dividing line between the same, and the county of Augusta; the expence of which, it is reasonable and just, that the inhabitants of the said county of Augusta, should be equally chargeable with:

III. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of*

the same, That the charge and expence of running the said dividing line, between the said two counties of Frederick and Augusta, shall be paid and born by the inhabitants thereof, in proportion to the respective number of tithables in each: And the court of the said county of Orange, shall and may, and they are hereby required, at the laying of the next county levy, after the passing of this act, to levy and assess upon the inhabitants of the said county of Augusta their full proportionable part of the said charge and expence, according to their number of tithables; to be collected by the same persons, and in the same manner, as is, and are appointed and directed, to receive and collect the tax or levy of two shillings, for every tithable person in the said county of Augusta in and by one act of Assembly, made in the fifteenth year of the reign of his present majesty, intituled, an act for laying a tax on the inhabitants of Augusta county, and appropriating the money thereby arising, to their use; which said proportionable part, so as aforesaid to be levied, shall be paid by the said collectors, to the justices of the said county of Frederick.

CHAP. XXXVII.

An Act, to enable Mann Page, Esq. to sell and dispose of certain entailed lands, to raise money for the payment of his father's debts, and performance of his will; and for other purposes therein mentioned.

I. **W**HEREAS Mann Page, late of Rosewell, in the county of Gloucester, esq. deceased, was, in his lifetime, seised of a very valuable estate in lands, lying in divers parts of this colony; and more especially of and in one certain tract or parcel of land, called Page-land, in the county of Prince William, containing ten thousand six hundred and ten acres; and of one other tract or parcel of land called Page-land, in the county of Frederick, formerly Prince William, containing eight thousand and seven acres; and of one other tract or parcel of land, in the county of Spotsylvania, containing four thousand five hundred acres; and of one other tract or parcel of land, containing one thousand three hundred and eighty acres, at or near

Mann Page
authorised to
sell certain
entailed
lands.

Hobb's-Hole, in the county of Essex; and of one other tract or parcel of land called Pamocra, containing nine hundred acres in the county of James City; and of a parcel of land, containing two thousand acres, in the county of Hanover; and also, of the reversion of seven hundred acres of land, or thereabouts, adjoining the city of Williamsburg, in the county of York; and of a parcel of land, called Neck-of-land, containing one thousand seven hundred acres, in the county of James City; and of a parcel of land called Pampatike, containing one thousand acres in the county of King William, expectant upon the death of Elizabeth Bray, then the wife of David Bray, Gentleman: And, being also possessed of a large number of slaves, and a considerable personal estate, by his last will and testament, in writing, bearing date the twenty fourth day of January, one thousand seven hundred and thirty, devised to his wife Judith, his dwelling house, with all out houses thereto belonging, where he then lived, and the mansion house then building, with all the land thereto adjoining, so far as the inward fence of the pasture run; and also all the slaves which then belonged to his dwelling house and the home plantation for and during her natural life, and after her decease, to his son Ralph Page. He did also devise to his said son Ralph Page, all his lands in the county of Gloucester, (excepting the land by him lately purchased of colonel Francis Willis, and the slaves on the last mentioned lands) and all his lands called Mahixon, in the county of Hanover, and all the lands called Claiborn's Neck in the county of King William, and the land by him lately purchased of Henry Chiles: He did also give to his said son Ralph, all the slaves on the said several tracts of land, and all the slaves belonging to the tracts of land which were his former wife's, the said Ralph's mother; which said lands by him so given to his said son Ralph, he did devise to him, and the heirs of his body, lawfully begotten; and in failure thereof, to his son Mann Page, and the heirs of his body, lawfully begotten; and in failure thereof, to his son Carter Page, and the heirs of his body, lawfully begotten; and in failure thereof, to his son John Page, and the heirs of his body, lawfully begotten; and in failure thereof, to his son Matthew Page, and the heirs of his body, lawfully begotten; and in failure thereof, to his son Ro-

bert Page, and the heirs of his body, lawfully begotten; and in failure thereof, to his daughters, Mary and Lucy, and to their heirs, for ever, equally to be divided, between them. He did also devise to his said son Mann Page, his tract of land lying near Hobb's-Hole, in the county of Essex, and all the slaves on the said land, and to the heirs of his body, lawfully begotten; and on failure thereof, to his said sons, Carter, John, Matthew and Robert, successively, and to the successive heirs of their several bodies, for ever; and on failure of such heirs, to his son Ralph Page, and the heirs of his body, lawfully begotten; and in failure thereof, to his daughters, Mary and Lucy, and to their heirs, for ever, equally to be divided between them: But declared his intent to be, that the slaves on the land so given to his son Mann Page, should be to him and his heirs, forever: He did also devise to his said son Mann Page, all his lands in the county of Spotsylvania, to him, and the heirs of his body, lawfully begotten, for ever; and all his lands in the county of Prince William, known by the name of Page-land, to him, and the heirs of his body, lawfully begotten, for ever; and on failure of such, to his said sons Carter, John, Matthew, Robert, and Ralph, successively, and to the successive heirs of their several bodies, for ever; and on failure of such heirs, to his said daughters, Mary and Lucy, and their heirs, for ever, equally to be divided between them. He did also devise to his said son Carter Page, all that tract of land purchased by his late father, Colonel Matthew Page, of Colonel William Basset, deceased, lying in the county of Hanover, under the same limitations as are mentioned in the devise of the lands to his son Mann Page: He also gave to his said son Carter, all the slaves, and stock of cattle and hogs, belonging to the land so given him; and did devise to his said son Carter Page, the reversion and reversions, and all the right, title, and interest he had in the lands late of his uncle, Mr. Francis Page, and which were then in the possession of Colonel David Bray, to his said son Carter, under the same limitations as are mentioned in the devise of the lands to his son Mann Page. He likewise devised to his son John Page, all that tract of land lying in the parish of Ware, in the county of Gloucester, by him purchased of Colonel Francis Willis, to his said son John, and the

heirs of his body, lawfully begotten, for ever, under the same limitations as are mentioned in the devise to his son Mann Page: He also gave to his said son John Page the slaves and stock of cattle and hogs, belonging to the said land and five hundred pounds sterling; to be paid him when he should attain to the age of twenty one years. He also gave to his said sons Matthew and Robert, and to his daughter Mary, two thousand pounds sterling, each; to be paid them when they should severally attain to the age of twenty one years; and to his daughter Lucy, five hundred pounds sterling; and declared his will to be, that the slaves and stocks, given to his sons, should be kept upon the lands to which they belonged, until his sons should severally attain to the age of twenty one years: And that out of the profits arising by the said slaves and lands, his children should be maintained and educated, suitable to their quality and circumstances; and that the residue of the said profits, be applied towards paying his debts, and the legacies given by his said will, as in the said will more fully is contained.

II. And whereas soon after the death of the said testator, his said sons Ralph Page, and Carter Page, departed this life, without issue, as did also the said David Bray, and Elizabeth his wife; whereby the lands so devised to the said Ralph Page, and Carter Page, are become vested in the said testator's son Mann Page.

III. And whereas the said testator, at the time of his death, was considerably indebted unto several persons in Great Britain, and in this colony, more than the value of his slaves and personal estate amounted to; for a great part of which debts, the said testator had engaged, in his life time, to pay interest.

IV. And whereas the profits of the said testator's estate have been applied, ever since his death, in discharging his debts, and the maintenance and education of his children according to his will; but have been found deficient and ineffectual: And the said Mann Page, the son, hath been obliged to advance great sums of his own money, to prevent creditors from bringing suits, and seizing and selling the said estate: and the portions so as aforesaid bequeathed, to the said testator's children, are mostly yet unpaid.

V. And whsreas now, after thirteen years experience, it appears impossible to raise money sufficient, out of the profits of the said estate, to discharge the said testator's debts and legacies; and the slaves and personal estate left by the said testator, if taken in execution and sold, will not be sufficient to pay the said debts and legacies, and to reimburse the said Mann Page the money by him advanced, as aforesaid; besides that the taking the said slaves in execution, will not only burthen the estate with great charge and expence, but very much distress the said Mann Page and John Page, by rendring their lands of little or no benefit to them; and must in a great measure, defeat the provision intended by the said testator, for the younger children.

VI. And whereas, altho' the said Mann Page is intituled to the lands intended, by this act, to be subjected to the paiment of the testator's debts, and which said lands are of a more considerable value than the negros and personal estate, designed to be affected by this act: yet, nevertheless, the said Mann Page, being desirous that his father's just debts should be paid and satisfied, and the portions of his younger brothers and sisters complied with, agreeable to the intention of his said late father, proposes, and is willing, that the lands hereafter mentioned, should be sold and disposed of, for the paiment of the said debts and legacies, and reimbursing him what he hath already expended, on account thereof: So that a property of all the personal estate and negros, belonging to the estate of the said testator, (except as hereafter excepted) may be absolutely vested in him, the said Mann Page, in part of satisfaction of the considerable interest he submits to be divested of by this act; subject, nevertheless, to the paiment of such part of the debts, legacies, and money, already expended by the said Mann Page, as the said lands, when sold, shall not be sufficient to satisfy and discharge.

VII. And whereas notice has been published three Sundays successively, in the several parish churches where the lands herein after mentioned lie, that application would be made, by the said Mann Page, the son, to this General Assembly for leave to sell and dispose of the said lands, pursuant to your majesty's

instructions: Therefore, for encouraging the good and laudable design of the said Mann Page, the son, to pay the debts, and fulfil the will of his said father, and the better to enable him so to do; and to the end, that some of the slaves left by the said testator, may be preserved, to the use of the said Mann Page, and John Page, in cultivating of their remaining lands, may it please your most excellent majesty, at the humble suit of the said Mann Page, the son, that it may be enacted;

VIII. *And be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this act, it shall and may be lawful to and for the said Mann Page, the son; and in case of his death, his executors or administrators; and he and they are hereby severally empowered, to sell, for the uses and purposes hereafter mentioned, to any person or persons who shall be willing to purchase the same, the following tracts or parcels of land; to wit, the said tract or parcel of land called Page-land, in the county of Prince William, containing, by estimation, ten thousand six hundred and ten acres, or thereabouts: The said tract or parcel of land called Page-land, in the county of Frederick, formerly Prince William, containing eight thousand and seven acres, or thereabouts: The said tract or parcel of land in the county of Spotsylvania, containing four thousand five hundred acres, or thereabouts: The said tract or parcel of land, at or near Hobbs's-hole, in the county of Essex, containing one thousand three hundred and eighty acres, or thereabouts: The said tract or parcel of land, called Pamocra, in the county of James city, containing nine hundred acres, or thereabouts: The said seven hundred acres of land, or thereabouts, adjoining the city of Williamsburg, in the county of York: The said tract or parcel of land, called Neck of land, in the county of James City, containing one thousand seven hundred acres, or thereabouts: The said tract or parcel of land, called Pampatike, in the county of King William, containing one thousand acres, or thereabouts: And the said tract or parcel of land in the county of Hanover, purchased by colonel Matthew Page, or colonel William Bassett, deceased, containing two thousand acres, or thereabouts.*

IX. *And be it further enacted*, That the said Mann Page, the son; and in case of his death, his executors or administrators, shall and may, and he and they are hereby further impowered, to make and execute all deeds and conveyances, necessary in the law, for assuring unto such purchaser or purchasers, a good estate, in fee simple, in the lands so to be purchased: And such purchaser or purchasers by virtue of such deeds and conveyances, and this act, shall, for ever hereafter, peaceably and quietly hold and enjoy the lands so purchased, to them, and their heirs, for ever. And the money paid by such purchaser or purchasers, shall be applied, in the first place, for and towards the payment and discharge of the debts of the said testator. Mann Page, still remaining unpaid, and for and towards the reimbursing the said Mann Page, the money by him so advanced, as aforesaid; and afterwards, for and towards the payment and discharge of the several legacies and portions, given and devised by the said testator, to his three younger sons and daughters.

X. *And be it further enacted, by the authority aforesaid*, That the following slaves, part of the slaves devised by the said testator, to his son, the said Ralph Page, to wit, Abram, Barnaby, John, Rachel, Lucy, Mary, Bob, Nanny, Billy, John, Tom, Beck, Nanny, Lucy, Bob, Judy, Alice, John, Frank, Joshua, Solomon, Jemmy, Jack, Margaret, Daniel, Jemmy, Sarah, Anthony, now being upon, and belonging to the quarter at Rosewell; James, Nicholas, Hannah his wife, Nell, Rachel, Harry, Billy, Davy, Jemmy, Bob, London, Isabel, Sue, Moses, Aaron, Sarah, Olliver, Dick, Jack, now being upon, and belonging to Clay-Bank quarter; Jack, Betty his wife, Billy, Dick, Bridget, Nat, Edmund, Betty his wife, Dick, Jeffry, Mary, John, London, Harry, Jack, Jemmy, Sarah, now being upon and belonging to Scotland quarter; Harry, Sarah his wife, Harry, Betty, Bob, Jemmy, Betty, Charles, Frank, Mat, Will, and Tony, now being upon, and belonging to Clement's quarter; all which said quarters are in the county of Gloucester, and the increase of the said female slaves, so long as any of them shall be living, shall be annexed to the lands in the said county of Gloucester, devised by the said testator to his said son Ralph, and shall be vested in the said Mann page, the son; and shall pass in descent, remain-

der, and reversion, to such person and persons, and to such estate and estates, and subject to the like limitations, as the last mentioned lands in the county of Gloucester. are, and stand limited, by the last will and testament of the said Mann Page, deceased: And that the said Mann Page, the son, his executors or administrators, shall be, and he and they is and are hereby empowered, to sell and dispose of such part of the said personal estate, and so many of the remaining slaves and negroes, belonging to the estate of the said testator Mann Page (except that part thereof which was given and bequeathed to the said John Page, as aforesaid) as he, the said Mann Page, the son, his executors or administrators, shall judge proper, and which may be sufficient, to make up what part the said lands may prove deficient, in discharge of the said debts, legacies, and monies, already disbursed by the said Mann Page, as aforesaid, and the money so to be raised by the sale of the said personal estate and negroes, shall be accordingly applied by the said Mann Page, his executors or administrators.

XI. *And be it further enacted*, That the absolute right, property, and interest of, and in all the other negroes, slaves, and personal estate, aforesaid, (except as before excepted shall be and remain, and is hereby declared to be and remain, in the said Mann Page, the son, his heirs, executors, administrators, and assigns, and to his and their own proper use and benefit; and to no other use and benefit whatsoever

XII. Saving to the king's most excellent majesty, his heirs and successors, and unto all and every other person and persons, bodies politic or corporate, their heirs and successors, other than the persons claiming under the last will and testament of the said Mann Page, deceased, their heirs, executors, administrators, or assigns, all such right, title, estate, interest, claim, and demand whatsoever, of, in, and to all or any of the lands and slaves before mentioned and described, as they or any of them had, should, or might have had, if this act had never been made.

XIII. *Provided always*, That the execution of this act shall be suspended, until his majesty's approbation thereof shall be obtained.

CHAP. XXXVIII.

An Act; to enable John Belfield, to sell certain lands therein mentioned, notwithstanding his infancy; and for other purposes therein also mentioned.

I. **W**HEREAS Thomas Wright Belfield, late of the county of Richmond, gent. deceased, was in his life time, seised, in fee simple, of and in one certain tract or parcel of land, lying and being in the said county, whereon he lived, containing, by estimation, fifteen hundred acres, or thereabouts, with the appurtenances; and of another tract or parcel of land, lying and being in the county of Orange, containing four hundred acres; and of another tract or parcel of land in the last mentioned county, containing eleven hundred acres: And was also seized, in fee tail, of and in a moiety or half part of twelve hundred acres of land, with the appurtenances, lying and being in the county of Lancaster; and of a moiety or half part of twelve hundred acres of land, with the appurtenances, lying and being in the county of Essex; and also possessed of several negros, and some personal estate: And so being seised and possessed, made his last will and testament in writing; and thereby he directed, that such part of his lands as his executors should think fit, should be sold, for the payment of his debts; and of his said will, appointed Mary Belfield his widow, John Belfield and William Jordan, gentlemen, executors; and soon afterwards, departed this life, much more indebted than the value of his fee simple lands, slaves, and personal estate, amounted to: And the said executors, pursuant to the said will, have made sale of the said lands whereof the said testator died seised, in fee simple, in order to pay his debts; and the said Mary Belfield, in behalf of the said John Belfield, the testator's eldest son, and heir at law, hath agreed for the purchase of the said tract or parcel of land, in the county of Richmond, but cannot raise money sufficient to pay the consideration for the same.

John Belfield, authorised to sell certain lands.

II. And whereas the said intailed lands, in the counties of Lancaster and Essex, are descended, and become vested in the said John Belfield, who is an infant, of the age of nineteen years, and upwards; and it hath been represented unto this General Assembly,

on behalf of the said John Belfield, that the lands in the counties of Lancaster and Essex, descended to him, as aforesaid, lie remote and inconvenient, and are under the value of two hundred pounds, respectively; and that it would be greatly for the advantage of the said John Belfield, if he might be enabled to sell the said intailed lands, and to apply the money arising from such sale, towards paying for the lands in the said county of Richmond, which the said Mary Belfield hath purchased for his use: Therefore, at the humble suit of the said John Belfield,

III. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same.* That it shall and may be lawful to and for the said John Belfield, to sue out a writ from the secretary's office, in the nature of an *ad quod damnum*, pursuant to the act of Assembly, made in the eighth year of the reign of his present majesty, for amending the act, intituled, an act, for settling the titles and bounds of lands; and for preventing unlawful shooting and ranging thereupon: and if the lands whereof he is seised in tail, as aforesaid, shall be, respectively, found not to exceed the value of two hundred pounds sterling, and not to be parcel of, or contiguous to other intailed lands, of the said John Belfield, then, by deed or deeds of bargain and sale, according to the directions of the said act, by and with the approbation of the said Mary Belfield, and of James Skelton, of the county of Henrico, gent. to make sale of the said intailed lands in the said counties of Lancaster and Essex, for the best price that can be got, to any person or persons who shall be willing to purchase the same: and the execution of such deed or deeds, shall be as good, binding, and available, to all intents and purposes, as if the said John Belfield had attained the age of twenty one years at the time of suing forth such writ or writs, or at the time of Execution of such deed or deeds; or any other act, matter or thing relating thereto: And the purchaser or purchasers, his or their heirs and assigns, shall, forever thereafter, peaceably and quietly possess and enjoy the said Lands, accordingly. Any law, custom, or usage, to the contrary thereof, in any wise notwithstanding.

IV. *And be it further enacted, by the authority aforesaid, That the money arising by the sale of the said lands, if sold, shall be paid to the said Mary Belfield, and James Skelton, or to the Survivor of them; and shall be by them applied for and towards the payment of the consideration money, agreed to be given for the lands in the county of Richmond, aforesaid: Which said last mentioned lands, in case the consideration aforesaid be satisfied, shall be conveyed to the said John Belfield; to hold to him, his heirs and assigns for ever.*

CHAP. XXXIX.

An Act, for establishing a town near Roy's Warehouse, in the county of Caroline; and for other purposes therein mentioned.

I. **WHEREAS** Charles Smith, late of the county of Essex, deceased, was in his life time, seized, in fee simple, of several tracts or parcels of land; and more particularly of a plantation and tract of land, containing, by estimation, five hundred acres, with the appurtenances, scituate, lying and being in the parish of St. Mary's, then in the county of Essex, but now in the county of Caroline: And being so seised by indenture, bearing date the fifteenth day of September, in the year of our lord one thousand seven hundred and seven, made between him, the said Charles Smith, of the one part, and Micajah Perry, Thomas Lane, and Richard Perry, of London, Merchants, of the other part, in consideration of the sum of six hundred and ninety pounds sterling, did bargain and sell among, others, unto the said Micajah Perry, Thomas Lane, and Richard Perry, the said plantation and tract of land; to hold unto them, their executors and assigns, for the term of one thousand years, under the yearly rent of one ear of Indian corn; upon condition or proviso, nevertheless, that if the said Charles Smith, his heirs, executors, administrators, or assigns, should well and truly pay or cause to be paid, unto the said Micajah Perry, Thomas Lane, and Richard Perry, their executors, administrators, or assigns, the sum of seven hundred and thirty one pounds eight shillings

Port Royal
in Caroline
established.

sterling, upon the sixteenth day of September, which should be in the year of our Lord one thousand seven hundred and eight, that then the said indenture, and the bargain and sale thereby made, and every thing therein contained, should cease, determine, and be utterly void, as in the said indenture more fully is contained: And the said Charles Smith, sometime after making the said indenture, departed this life, leaving Robert Smith, his eldest son, and heir at law, to whom the reversion of the said lands descended.

II. And whereas the said Charles Smith, in his lifetime, and his representatives after his death, failed in the payment of the said seven hundred and thirty one pounds eight shillings sterling, according to the Proviso or condition aforesaid; and the said Micajah and Richard Perry, who were the surviving mortgagees, by indenture, made by their attorney for that purpose appointed, bearing date the thirtieth day of October, in the year of our Lord one thousand seven hundred and nineteen, for the consideration of one hundred and seventy pounds sterling, did bargain, sell, and assign, unto John Catlett, late of the county of Essex, gent. deceased, and Rowland Thornton, late of the county of King George, deceased, their executors, administrators, and assigns, the said plantation, and five hundred acres of land, with the appurtenances, and all the estate, term, and time, then to come, of the said one thousand years, of them the said Micajah and Richard Perry of and into the same.

III. And whereas the said John Catlett and Rowland Thornton, are since dead, and their executors and representatives have preferred their bill in Chancery, which is now depending in the General court of this Colony, against the said Robert Smith the son, and heir at law, in order to obtain a decree, either for the payment of the said one hundred and seventy pounds, and the interest incurred thereon, or to foreclose the equity of redemption of the said plantation and lands, with the appurtenances; since the commencement of which said suit, the said Robert Smith departed this life, having, before his death, made his last will and testament, in writing; and thereby impowered and directed Richard Taliaferro, of the county of Caroline, gent. to lay off into lots, sixty acres of land, part of the said five hundred acres, next adjoining to

the river, in the most convenient manner, for a town; and to sell the same, in order to raise money to redeem the said plantation and lands so mortgaged, as aforesaid: And, by his said will, did give and devise to his wife and two sons, Lawrence and Charles, each one lot; and after several other particular legacies and bequests, given in the said will, the said Robert Smith gave all the rest of his estate, of what property or nature so ever, to be equally divided, between his wife and four children, Lawrence, Charles, Elizabeth, and Dorothy, and the survivors of them, and their heirs, for ever.

IV. And whereas the said Richard Taliaferro, in pursuance of the power and authority to him given, by the said will, hath surveyed and laid off into lots, sixty acres of the said land, in the most convenient manner, for a town; and hath represented to this General Assembly, that the same is a place healthful, convenient, open to trade and navigation, and that the establishing a town there, and selling the lots, is the only expedient to raise money to redeem the said mortgaged premises, and preserve the negroes and personal estate of the said Robert Smith, for his widow and children:

V. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same,* That from and after the passing of this act the said sixty acres of land, so as aforesaid surveyed and laid out by the said Richard Taliaferro, shall be vested in Charles Carter, William Beverley, Lunsford Lomax, Thomas Turner, John Baylor, Richard Taliaferro, and Olliver Towles, gentlemen, and their successors, in trust, for the several purposes herein after mentioned: And the said Charles Carter, William Beverley, Lunsford Lomax, Thomas Turner, John Baylor, Richard Taliaferro, and Olliver Towles, gentlemen, are hereby constituted directors and trustees, for building, carrying on, and maintaining a town on the said land; and they, or any three of them, shall have full power to meet as often as they shall think necessary, and shall set apart such land for a market place, and public quay, and appoint such places upon the river for public landings, as they shall think most convenient; and if the same shall be necessary, shall direct the making of wharfs and cranes at such public landings, for the

public uses And the said directors and trustees having first laid out and set apart and conveyed one lot to each of them, the said widow of the said Robert Smith, and his sons Lawrence and Charles Smith, devised to them as aforesaid, shall have full power and authority, to sell the residue of the said lots, by public sale or auction, from time to time, to the highest bidder; and when such lots shall be sold; any two of the trustees shall and may, upon payment of the purchase money, by some sufficient conveyance or conveyances, convey the fee simple estate of such lot or lots to the purchaser or purchasers; and he or they, and his and their heirs and assigns, respectively, shall and may thereafter, peaceably and quietly have, hold, possess and enjoy the same, freed and discharged of and from all right, title, claim, interest and demand, whatsoever, of the assignees of the said recited mortgage, and also of the heirs of the said Robert Smith, and all other persons claiming under him, them, or either of them.

VI. *And be it further enacted, by the authority aforesaid,* That the said directors shall have full power and authority, to establish such rules and orders, for the more regular placing the said houses, as to them shall seem fit from time to time: And if the inhabitants of the said town shall fail to obey and pursue the rules and orders of the said directors, in repairing and amending the streets, landings and public wharfs, they shall be liable to the same penalties as are inflicted, for not repairing the high ways in this colony.

VII. And for continuing the succession of the said trustees and directors, until the said town shall be incorporated, *Be it further enacted,* That in case of the death of any of the said directors, or their refusal to act, the surviving or other directors, or the major part of them, shall assemble, and are hereby empowered from time to time, by instrument in writing, under their respective hands and seals, to nominate some other person or persons, being an inhabitant or freeholder of the said town, in the place of him or them so dying or refusing; which new director or directors, so nominated and appointed, shall from thenceforth, have the like power and authority, in all things relating to the matters herein contained, as if he or they had been expressly named and appointed, in and by this act: And e-

very such instrument and nomination, shall from time to time, be entered and registered in the books of the said directors.

VIII. *And be it further enacted, by the authority aforesaid,* That the said trustees and directors shall apply the money, arising by the sale of the said lots, in manner following: That is to say, in the first place, for and towards the satisfying and paying any such judgment or decree as shall be obtained, by the assigness of the said mortgage, in the suit herein before mentioned, to be depending in the general court, or any other suit to be brought for the same, together with the costs and charges which shall be awarded and expended; and if any money shall remain, after the payment of such judgment, or decree, and costs, then to pay and allow one fifth part of such overplus, to the widow of the said Robert Smith, and to put out to interest upon good and sufficient security, the remaining four parts, in trust, to and for the joint benefit of Lawrence Smith, Charles Smith, Elizabeth Smith, and Dorothy Smith, the children of the said Robert Smith, or the survivors of them, and the representatives of any of the said children who shall happen to die; to be paid to them or the survivors and representatives of them, in equal proportions, when they shall, respectively, attain the age of twenty one years, or marriage.—*And be it further enacted,* That the said town shall be called by the name of Port Royal.

IX. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person and persons, bodies politic and corporate, their respective heirs and successors, other than the person or persons claiming under the above recited mortgage, and the heirs of the said Robert Smith, all such right, title, estate, interest, claim, and demand, as they, every, or any of them, should or might have had or claimed, if this act had never been made.

X. *Provided always,* That if the said trustees and directors, or the executors of the said Robert Smith, shall not satisfy and pay the said judgment, or decree, and costs to be obtained as aforesaid, within two years after the obtaining of the same, that then the assignees of the said mortgage, shall be, and they are hereby vested again, with the same right, title, and interest, in and to the said sixty acres of land, laid out into a

town, as aforesaid, as if this act had never been made, any thing herein contained to the contrary, notwithstanding.

CHAP. XL.

An Act, to impower Peter Hedgman, gent. to lay out and apply the rents and profits of certain intailed lands, therein mentioned, whereof William Brent lately died seised, towards paying the debts of the said decedent; and for other purposes therein mentioned.

Peter Hedgman authorised to apply certain rents of lands to payment of debts of Wm. Brent.

I. WHEREAS William Brent, late of the county of Stafford, gent. dec'd. was in his life time, seised in fee tail, of and in divers large tracts or parcels of land, lying and being in the said county of Stafford, and of the county of Prince William; and possessed of some slaves and personal estate; and so being seised and possessed, departed this life, in the year one thousand seven hundred and forty two, leaving issue William Brent, his eldest son, and heir at law, to whom the said lands descended; and having first made his last will and testament, and thereof appointed Henry Fitzhugh, esq. and Peter Hedgman, gent. of the same county of Stafford, his executors, and guardians to his said son.

II. And whereas the said testator, in his life time, having a right to a large parcel of lands in the province of Maryland, in the possession of Benjamin Tasker, esq. did commence a suit for the same, in the said province, and obtained a recovery; from which judgment the said Benjamin Tasker appealed to his majesty, in his privy council: And the said testator, in his life time, went to Great Britain to defend the said appeal; where, being entirely destitute of money, John Philpot, and John Buchanan, merchants, in London, upon the credit of his title to the last mentioned lands, did advance the sum of three hundred pounds sterling, to enable him to defend the said appeal, which was determined in his favour: And the said testator in his life time, always expressed himself very desirous, that the said money should be repaid.

III. And whereas the slaves and personal estate of which the said testator died possessed, are exhausted

in paying the debts, which he owed at the time of his death, to sundry persons in this colony; and the money so due to the said Philpot and Buchanan, with the interest thereupon, is still unpaid.

IV. And whereas the rents and profits, arising from the said lands, in the counties of Stafford and Prince William, and in the province of Maryland, will be more than sufficient to maintain the said William Brent, the son, to whom the said lands are descended, and to pay the said three hundred pounds sterling, and interest; yet the said Peter Hedgman, the surviving guardian, (the said Henry Fitzhugh being now dead) cannot pay the same out of the said rents and profits, nor lay out the overplus of the said rents and profits, after maintaining the said William Brent, the son, in slaves and stocks, to be placed on the said lands, for the benefit of the said orphan, unless he may be impowered so to do, by act of Assembly: Therefore, at the humble suit of the said Peter Hedgman,

V. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the passing of this act, it shall and may be lawful to and for the said Peter Hedgman, and he is hereby authorised and impowered, after maintaining and educating the said William Brent, the son, suitable to his circumstances, to lay out and apply the residue of the rents and profits arising from the lands, descended to the said William Brent, as aforesaid, in the first place, for and towards the paiment and discharge of the said three hundred pounds, and interest, or so much thereof as is or shall be due to the said Philpot and Buchanan; and afterwards in purchasing slaves and stocks, to be placed upon the lands aforesaid, of the said William Brent, for his use, in cultivating and improving the said lands; and to no other use whatsoever.

VI. *Provided always,* That this act shall continue and be in force, during the time the said Peter Hedgman shall continue guardian to the said William Brent, the son, and no longer.

CHAP. XLI.

An Act, to enable Susannah Cooper, to sell and dispose of her personal estate, by deed or will, notwithstanding her husband, Isles Cooper, shall happen to be living; and for other purposes therein mentioned.

Susannah Cooper authorised to dispose of her property as a feme sole.

I. **W**HEREAS Susannah Cooper, of the county of New Kent, late Susannah Sanders, some time in the year of our lord one thousand seven hundred and seventeen, intermarried with one Isles Cooper; and at the time of such marriage, was possessed of a personal estate.

II. And whereas the said Isles Cooper, at the time of such marriage, was a person of no fortune or circumstance, and in less than three years after the said marriage, left the said Susannah, and went to parts unknown to her, having first spent and consumed great part of the estate brought him by the said Susannah, and also contracted several debts; for satisfaction whereof, his creditors, after his departure, seised, and took in execution, the small remainder, left by him, of the said estate: Whereby the said Susannah was reduced to the utmost misery and distress, and was obliged, for some time, to depend upon the charity and assistance of her friends and relations for support: And the said Isles Cooper, some small time after his departure, married to another wife, who in a little time died; and soon after married again to a third wife, by whom he had several children, some of which are now living.

III. And whereas the said Susannah hath made humble suit, by petition, to this present General Assembly, setting forth the matters aforesaid; and that she hath received no letter from the said Isles Cooper for these twenty odd years past: And also, that since her said husband's departure, she hath, by her industry, been enabled to purchase a few slaves, and hath also acquired a small personal estate, though not sufficient to support her, in the decline of life, so comfortably as she might be supported if she was at liberty to dispose of any part of such estate, so by her acquired; but that no purchaser will treat with her on account of her coverture: And further setting forth, that in her present unhappy situation, she is exposed to many in-

juries, some persons committing trespasses on her tenements, and others refusing to perform their contracts and agreements with her; for which wrongs and injuries, she is advised she can maintain no action in her own name, unless her husband be actually dead: And moreover being desirous to make provision for a son she hath by the said Isles Cooper, and to leave him the small estate she hath, or may have in possession, at the time of her death; which, she is also advised, she cannot do, by law, in case her husband should happen to be living, without an act of Assembly to enable her so to do:

IV. Therefore, in as much as the said Isles Cooper hath been absent so many years, and intermarried with other women, though he knew the said Susannah was living, and hath utterly neglected to make any provision for the maintenance of her, the said Susannah Cooper, during all that time; it is reasonable that the said Susannah should have power, notwithstanding her said husband is now living, to dispose of such estate as she hath acquired by her own industry, since her said husband left her: May it please your most excellent majesty, at the humble suit of the said Susannah Cooper, that it may be enacted;

V. *And be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and by the authority of the same,* That the said Susannah Cooper shall and may, and she is hereby enabled, notwithstanding the said Isles Cooper her husband, is now living, by her last will and testament, or otherwise, to give, sell, and dispose of all, or any part of the slaves, or personal estate, whereof she now is, or hereafter shall be possessed, in the same manner as she might, or could dispose of the same, if the said Isles Cooper was naturally dead, and the said Susannah Cooper was actually and really a feme-sole.

VI. *And be it further enacted, by the authority aforesaid,* That the said Susannah Cooper shall, and may, and she is hereby enabled, at all times hereafter, by the name of Susannah Cooper, to make contracts and agreements, in her own name, and to sue and be sued, in all courts of judicature within this colony, as a feme sole may, or can, by law, notwithstanding the

said Isles Cooper is living: And that none of the estate, whereof the said Susannah Cooper now is, or hereafter shall be possessed, shall be subject or liable to the debts, controul, or disposition of the said Isles Cooper, though he be living; but that the same shall, for ever hereafter, remain and be for the sole and separate use and behoof of the said Susannah Cooper, her heirs, executors, or administrators, or such other person or persons, to whom she shall give, grant, convey, or devise the same, as aforesaid. Any law, statute, custom, or usage, to the contrary, notwithstanding.

VII. *Provided always*, That notwithstanding the said Isles Cooper be now living, and the said Susannah shall survive him, that she, the said Susannah, shall not claim, have, or be intitled to any part or share of the estate of the said Isles Cooper, either real or personal; but that she the said Susannah, shall be, and is hereby utterly excluded and barred from all dower and thirds, or other part or share of the estate of the said Isles Cooper, either real or personal. Any law, statute, usage, or custom, to the contrary notwithstanding.

VIII. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person or persons, bodies politic and corporate, their respective heirs and successors, other than the person or persons claiming under the said Isles Cooper, all right, title, estate, interest, claim, and demand, as they, every, or any of them, should or might have had or claimed, if this act had never been made.

IX. *Provided always*, That the execution of this act shall be suspended, until his majesty's approbation thereof shall be obtained.

CHAP. XLII.

An Act, to dock the entail of certain Lands therein mentioned, and to vest the same in Francis West, in fee simple; and to settle other Lands, of greater value, to the same uses.

I. WHEREAS Nathaniel West, late of the county of King William, was, in his life time, seised, in fee-simple, of and in a certain tract of land and plantation, in the county of King William, aforesaid, called and known by the name of the Home House, containing, by estimation, one thousand acres, or thereabouts; and was also seised, in fee-tail, of a tract of land, in the said county, called Apperchanking's old-field, containing, by estimation, six hundred and fifteen acres: And being so seised, made his last will and testament, in writing, bearing date the twenty second day of July, one thousand seven hundred and twenty seven; and therein did devise to Thomas West, his brother, the plantation and tract of land, called the Home-House; and to his other brother, Francis West, the tract of land and plantation, called Apperchanking's old-field; on condition, that the said Thomas West should not sue for, and recover, of the said Francis West, the said Apperchanking's old field tract of land, as heir at law to his father, Thomas West; to whom it was devised, in tail, by John West, the grandfather of the said Nathaniel West.

Entail of certain lands docked, and vested in Francis West.

II. And whereas, by virtue of the said will, the said Francis West entered into the said tract of land, called Apperchanking's old field; but being very young when he took possession thereof, and then under the tuition of his brother, Thomas West, did, without consulting the will of his said grandfather, or being advised thereof, build and make great improvements thereon.

III. And whereas also, the said Thomas West, by virtue of the said recited will, did possess himself of the Home-Honse tract of land and plantation; but knowing that he was heir to a very valuable tract of land, called West-Point, and intending to move there immediately after the death of Judith Butts, who was

tenant for life thereof, suffered the houses on the Home plantation to decay, and become ruinous.

IV. And whereas some time afterwards, and a little before the death of the said Thomas, he being apprehensive of the great injury the said Francis was like to sustain by his heir at law, his suing for and recovering the said Apperchanking's old-field tract of land, made his last will and testament, in writing, and thereof did appoint Martha West his executrix, and therein made a recital of the whole affair; and did thereby require and direct his said executrix to make application to the General Assembly, that an act might pass, for vesting the fee-simple estate of the said tract of land and plantation, called Apperchanking's old-field, in Francis West, pursuant to the intentions of the said Nathaniel; and that in lieu thereof, the tract of land and plantation, called the Home-House, should descend and go, in the same manner, and be under the same limitations, as the tract of land and plantation, called Apperchanking's old field, might or should go and descend, by the will of the said John West, the grandfather.

V. And forasmuch as the said Home-House tract of land and plantation, is of greater value than the said tract of land and plantation, called Apperchanking's old-field; and notice has been published three Sundays successively, in the church of the parish where the said lands lie, that application would be made to this General Assembly, pursuant to the directions of the will of the said Thomas West, to vest the said Apperchanking's old field tract of land, containing six hundred and fifteen acres, with the appurtenances, in the said Francis West, in fee-simple; and to settle the said Home-House tract of land and plantation, containing one thousand acres, or thereabouts, to the uses as the said six hundred and fifteen acres are settled, by the last will and testament of the said John West, the grandfather, pursuant to your majesty's instructions: May it therefore please your most excellent majesty, at the humble suit of the said Martha West, executrix of the last will and testament of the said Thomas West, deceased, and of Francis West, brother of the said Thomas West, that it may be enacted;

VI. *And be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General As-*

sembly, and by the authority of the same, That the said tract of land and plantation, called Apperchanking's old-field, containing six hundred and fifteen acres, so as aforesaid devised by the last will and testament of the said Nathaniel West, be, and are hereby vested in the said Francis West, his heirs and assigns; to the only use and behoof of him the said Francis West, his heirs and assigns, for ever: And that the said tract of land and plantation, called the Home-House, containing one thousand acres, or thereabouts, in the said county of King William, shall be, and are hereby vested in the right heir at law to the said Thomas West, deceased, and under the same restrictions, remainders, and limitations, as by the will of the said John West, the grandfather, is appointed and limited; and that he, and all and every person or persons whatsoever, who by the said last will and testament, might have claimed the said six hundred and fifteen acres of land, hereby vested in the said Francis West, as aforesaid, shall, forever hereafter, hold and enjoy the said one thousand acres of land, or thereabouts, with the appurtenances, successively, as they might have claimed and held the said six hundred and fifteen acres, if this act had never been made.

VII. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person or persons, bodies politic and corporate, their respective heirs and successors, other than the person or persons claiming the said six hundred and fifteen acres of land, under the last will and testament of the said John West, the grandfather, all such right, title, estate, interest, claim, and demand, as they, every, or any of them, should or might have had or claimed, if this act had never been made.

VIII. *Provided always,* That the execution of this act shall be suspended, until his majesty's approbation thereof shall be obtained.

*An Act, to vest certain Lands therein mentioned, where-
of George Carter, Esq; lately died seised, in fee-
simple, in certain trustees therein named, to be sold,
for the performance of his Will.*

Certain lands
of George
Carter, in
Prince Wil-
liam and
Fairfax vest-
ed in trus-
tees.

I. **W**HEREAS George Carter, late of Middle-
Temple, in London, Esq. deceased, was, in
his life time, seised, in fee-tail, of and in divers tracts
or parcels of land, lying and being in this colony; and
was also seised, in fee-simple, of one certain tract or
parcel of land, containing three thousand three hun-
dred and twelve acres, lying and being in the counties
of Prince William and Fairfax, at the upper thorough-
fare of the Blue Ridge, known by the name of Ashby's
Bent, including the same, granted to him by the pro-
prietors of the Northern Neck of this colony, by deed
poll, bearing date the twenty ninth day of June, in the
year of our lord one thousand seven hundred and thirty
one; and of one other tract or parcel of land, contain-
ing two thousand nine hundred and forty one acres,
lying and being in the said county of Prince William,
granted to him by the said proprietors of the North-
ern-Neck, by deed poll, bearing date the same day and
year aforesaid; and of one other tract or parcel of
land, containing six thousand nine hundred and forty
three acres, lying and being in the county of Prince
William aforesaid, being the part and share allotted to
him of a larger tract, containing forty one thousand
six hundred and sixty acres, granted to Landon Car-
ter, the said George Carter, Lewis Burwell, Carter
Burwell, Robert Burwell, Mann Page, and Carter
Page, by the proprietors of the Northern-Neck afore-
said, by deed poll, bearing date the nineteenth day of
September, in the year of our lord one thousand seven
hundred and twenty four; and of one other tract or
parcel of land, containing eight thousand three hun-
dred and sixty five acres, lying and being in the county
of Frederick, being the part and share allotted to him
of a larger tract, containing fifty thousand two hun-
dred and twelve acres, granted to the said Landon
Carter, George Carter, Carter Burwell, Robert Bur-
well, Carter Page, and Robin Page, Benjamin Harri-
son, Robert Carter, Nicholas and Robert Carter, Juni-

or, by the proprietors of the Northern Neck aforesaid, by deed poll, bearing date the twenty second day of September, in the year of our lord one thousand seven hundred and thirty; and was also possessed of a great number of slaves, and stocks of cattle, and other personal estate, upon the several plantations of which he died seised, in tail: And so being seized and possessed, made his last will and testament, in writing, bearing date the second day of January, one thousand seven hundred and forty one; and therein he recited, that by the will of his father, Robert Carter, late of this Colony, esq; deceased, certain lands, therein more particularly described, were given to him, in tail general, or in tail-male, with the remainders limited, after the said estates tail, to several of his brothers, in different orders; and that there were upon the said lands, distinct sets of slaves, stocks, and other utensils, proper for the management of Virginia estates; and declared his will to be, that the said slaves, stocks and other utensils, should go, as far as he was able to limit the same, to the same persons as would be, by virtue of the remainders limited by his father's will, respectively, entituled to the said lands; and that such of his brothers as should, upon his decease, become entituled to the remainders above-mentioned, should have no benefit of any other part of his real or personal estate, any other ways than as before-mentioned, or under such restrictions as was thereafter expressed: And as to the rest of his real estate, he did devise the same to his brother John Carter, esq; and his heirs, in trust; nevertheless, that he should sell the same, and apply and pay the money arising by the sale, to such persons, and in such shares, as, by the laws of Virginia, the personal estate of any one, dying intestate, is distributed; and that the residue of his personal estate, lying, at the time of his decease, either in England, or Virginia, and not therein before or thereafter disposed of, should likewise be distributed in the same manner, as the said personal estate would have been divided, by the laws of Virginia, in case he had died intestate: *Provided nevertheless*, That such of his brothers as should be entituled, by virtue of his father's will, to the next remainder of any of the lands upon his decease, should have no share of the money arising from the sale of such lands as were directed to be sold,

or of the residue of his personal estate, thereby bequeathed, unless they should first bring into hotch potch, the said lands to which they should succeed, upon his decease; and likewise all the stocks, slaves, and utensils, upon the said lands therein before bequeathed to them, as in the said will more fully is contained.

II. And whereas, after the death of the said testator, George Carter, the lands whereof he died seised, in fee tail, did, according to the will of his said father, go in remainder to his brother Landon Carter, of the county of Richmond, esq; who is now seised thereof; and also possessed of the said slaves, stocks, and utensils, which were of the said George Carter, at the time of his death, upon the said lands, and hath refused to bring the same into hotch potch.

III. And whereas the said John Carter never executed the trust reposed in him by the said will, and lately departed this life, leaving issue Charles Carter, his eldest son, and heir at law, an infant of tender years: And it hath been represented to this General Assembly, by the persons who are entituled to the money, arising from the sale of the lands of which the said George Carter died seised, in fee simple, that the said lands now lie uncultivated and burthened with quit-rents; and that they are all willing and desirous that the same should be sold, pursuant to the will of the said testator; but the said Charles Carter being an infant, as aforesaid, the same cannot be done, as the case now is, for many years: Therefore, at their humble suit,

IV. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That from and after the passing of this act, the said tract or parcel of land, containing three thousand three hundred and twelve acres, or thereabouts, with the appurtenances, lying and being in the said counties of Prince William and Fairfax; the said tract or parcel of land, containing two thousand nine hundred and forty one acres, or thereabouts, with the appurtenances, lying and being in the said county of Prince William; the said tract or parcel of land, containing six thousand nine hundred and forty three acres, or thereabouts, with the appurtenances, lying and being in the said county of Prince William; and the said tract or parcel of land, con-*

taining eight thousand three hundred and sixty five acres, with the appurtenances, lying and being in the said county of Frederick; and all other the lands and tenements in this colony, whereof the said George Carter died seised, in fee simple, be, and they are hereby vested in Charles Carter, Peter Hedgman, Thomas Turner, Benjamin Robinson, George Braxton the younger and William Waller, gentlemen, and the survivors and survivor of them, in fee-simple, in trust; nevertheless, that the said Charles Carter, Peter Hedgman, Thomas Turner, Benjamin Robinson, George Braxton the younger, and William Waller, gentlemen, or any two or more of them, and the survivors and survivor, shall sell, to any person or persons who shall be willing to purchase the same, and for the best price that can be got, all and singular the premises, with the appurtenances, hereby vested in them, and every part and parcel thereof; and shall and may execute all deeds and conveyances, necessary in the law, for assuring unto such purchaser or purchasers a good estate, in fee-simple, in the lands so to be purchased: And such purchaser or purchasers shall, for ever thereafter, peaceably and quietly hold and enjoy the lands and appurtenances so purchased, to them, their heirs and assigns, for ever. And the said trustees shall pay the money arising from such sale or sales, after deducting the necessary charges they shall be at about the same, unto the several persons who by the will of the said George Carter, deceased, are or shall be entitled, thereto according to their several respective and distributive rights, interests, and shares therein.

V. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person and persons, bodies politic and corporate, their heirs and successors, other than the heirs of the said George Carter, and the persons claiming under his will, all such right, title, estate, interest, claim, and demand whatsoever, of, in, and to all or any of the lands and tenements, hereby vested in the aforementioned trustees, as they, every, or any of them had, should, or might have had, if this act had never been made.

CHAP. XLIV.

An Act, to vest certain Lands therein mentioned, in the persons who have purchased under the feoffees and trustees of the town of Tappahannock.

Tappahannock town of, recital of its establishment.

I. **W**HEREAS, by virtue of an Act of Assembly, made in the thirty second year of the reign of King Charles the second, intituled, An Act, for cohabitation and encouragement of trade and manufacture, fifty acres of land, then supposed to belong to Benjamin Goodrich, at Hobb's-Hole, in the county of Rappahannock, now Essex, and lying on the South side of Rappahannock river, were surveyed for a town, named New-Plymouth, and laid out in lots and streets; and afterwards, by another act, passed in the third year of the reign of King William and Queen Mary, intituled, An Act, for establishing ports and towns, the said fifty acres of land, then being in the county of Essex, were established for a port and town, by the name of Tappahannock: which last mentioned act being suspended, another act, intituled, an act, for confirming titles to town lands, was made, in the fourth year of the reign of queen Anne; whereby it was, among other things, enacted, That where any county or counties had purchased, laid out, and paid for any lands, for ports or towns, pursuant to the said act, For ports, &c. or to any other act of Assembly, and had vested the same in feoffees or trustees, according to the said act or acts, such feoffees or trustees so invested, were thereby declared to have a good, absolute, and indefeasible estate, in fee, in such lands respectively, which had not been disposed of by the former trustees, in trust and confidence, to and for the uses in the said act, for ports, &c. mentioned; and for no other use or purpose whatsoever: And the said land or lands were thereby confirmed to the said feoffees or trustees, in fee, to such use or uses. Any thing in the said suspension, or any other law, statute, usage, or custom, to the contrary, in any wise, notwithstanding.

II. And whereas the said lots were, by the said feoffees and trustees, sold, for the purposes in the said recited acts mentioned; and upon an exact survey of the bounds thereof, as the same were then laid out,

and have been since built upon, made the thirty first day of August, one thousand seven hundred and forty four, by Robert Brooke, gent. surveyor of the county of Essex, it appeared, that seventeen acres, parcel of the fifty acres, laid out as aforesaid, were and are no part of the lands of Benjamin Goodrich; but were found to be within the bounds of a greater tract, formerly belonging to Robert Payne, and now in the possession and tenure of Robert Spilsbee Coleman, who never had received any satisfaction for the same: And it being reasonable that the true proprietor should have the full value of his land, taken away by the said acts; and that the purchasers under those acts should be confirmed in their estates: Therefore, for removing all controversies,

III. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the said seventeen acres of the said Robert Spilsbee Coleman's land, included within the old bounds of the said town, and the course of the river, be, and the same are hereby vested in the present trustees and feoffees of the said town, and their successors, for ever, in as full and ample manner, to all intents and purposes, as if the same had been part of the land of the said Benjamin Goodrich, to and for the uses and purposes in the before recited acts mentioned: And that all persons who have purchased and paid for any lot or lots of any of the trustees or feoffees, and have fully complied with the conditions in the said laws mentioned and set down; and that all persons who have purchased any lot or lots, part of the said seventeen acres, under the feoffees and trustees of the said town, appointed by virtue of the said acts, or any of them, and their heirs and assigns, respectively, shall, for ever hereafter, be vested, and stand seised, of and in an absolute estate of inheritance, in fee-simple.

Certain lots therein vested in the purchasers.

IV. *Provided always,* That there shall be paid, by the justices of the said county, to the said Robert Spilsbee Coleman, or his assigns, before the first day of September next, the sum of twenty five pounds; which is hereby declared to be in full satisfaction, for all his right or title in or to the said premises, or any part thereof.

CHAP. XLV.

An Act, for vesting three hundred and ninety four acres of Land, with the appurtenances in the county of King William, whereof William Banks is seised, is fee tail, in John Norton, gent. in fee-simple; and for settling several slaves therein named, in lieu thereof, to the same uses.

Certain lands
in King Wm.
entailed on
Wm. Banks,
vested in
John Norton.

I. **W**HEREAS William Banks, late of the parish of St. Stephen, and county of King and Queen, was, in his lifetime, seised, in fee-simple, of and in twelve hundred acres of land, with the appurtenances, scituate lying and being in the parish and county aforesaid; and by his last will and testament, in writing, bearing date the tenth day of November, in the year of our lord one thousand seven hundred and nine, devised the same, by the name and description of his house and dividend of land whereon he then lived, to his son Ralph, conditionally, that he should no way alienate or transfer the same, to any other use than the use or uses that should be by him, the said testator, therein declared, and to the heirs of his body, lawfully begotten, meaning his children present, or hereafter, to whom the right of inheritance of, in, and to the said land, should descend and go, in case they or any of them survive him, as in and by the said will may more fully and at large appear: And sometime afterwards, the said William Banks died, so as aforesaid seised; after whose death, the said Ralph Banks entered into the said lands, with the appurtenances, so as aforesaid devised, and was thereof seised, in fee-tail, and died so seised, some time in or about the year of our lord one thousand seven hundred and thirty five; after whose death, the said twelve hundred acres of land with the appurtenances, descended and came to William Banks, as heir of the body of the said Ralph Banks, his father; which said last mentioned William Banks, bargained and sold four hundred and twenty acres, part thereof, to George Braxton, the younger, of the parish and county aforesaid, gent.

II. And whereas, on the application of the said George Braxton, to the last Assembly, an act was made, to vest the said four hundred and twenty acres of land, with the appurtenances, parcel of the said

twelve hundred acres of land, so as aforesaid, by the last will and testament of the said first mentioned William Banks, devised, in the said George Braxton, the younger, his heirs and assigns; to the only use and behoof of the said George Braxton, his heirs and assigns, for ever: And that a water grist-mill, and three hundred and ninety four acres of land, with the appurtenances, in the county of King William, whereof the said William Banks was seised, in fee-simple, should be, and were thereby vested in the said William Banks, son of the said Ralph Banks, and the heirs of his body, lawfully begotten for ever: And that he, and all and every person or persons whatsoever, who, by the last will and testament of the said William Banks the testator, might have claimed the four hundred and twenty acres of land, thereby vested in the said George Braxton, as aforesaid, should, for ever thereafter, hold and enjoy the said water grist-mill, and three hundred and ninety four acres of land, in the said county of King William, with the appurtenances, successively, one after another, as they might have claimed and held the said four hundred and twenty acres of land, if that act had never been made.

III And whereas the said last mentioned William Banks, hath a great number of children, and is not able to make provision for them; neither had he negroes sufficient to work the remainder of the said twelve hundred acres of land; so that the same was not only burthensome to him, but would also be a burthen to his heir, to whom the said land is to descend, rather than a benefit. And whereas the said William Banks hath sold and conveyed the aforesaid water grist-mill, and three hundred and ninety four acres of land, with the appurtenances, in the county of King William, to John Norton, gent. of the said county, to enable him to purchase negroes, for the benefit of his heir.

IV. And forasmuch as notice has been published three Sundays successively, in the church of the parish of St. John, wherein the said mill and land lie, that application would be made to this General Assembly, to vest the said mill and three hundred and ninety four acres of land, with the appurtenances, in the said John Norton, in fee-simple, upon settling slaves of greater value, to the same uses, as the said mill and three hun-

dred and ninety four acres of land were settled, by the said act of Assembly, pursuant to your majesty's royal instructions: May it therefore please your most excellent majesty, at the humble suit of the said William Banks and John Norton, that it may be enacted;

V. *And be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and by the authority of the same,* That the said water grist-mill, and three hundred and ninety four acres of land, with the appurtenances, in the said county of King William, so as aforesaid settled, in lieu of the said four hundred and twenty acres of land, parcel of the said twelve hundred acres, so as aforesaid devised, by the last will and testament of the first mentioned William Banks, by the said act of Assembly, be, and are hereby vested in the said John Norton, his heirs and assigns; to the only use and behoof of him, the said John Norton, his heirs and assigns, for ever: And that the negro slaves hereafter named, to wit, Tom, Primus, London, Banno, Bacchus, Betty, Parthena, Violet, Judy, Mirtilla, Windsor, and George, and their future increase, so long as any of them shall be living, shall be, and are hereby annexed to the said land, called the home house residue of the said twelve hundred acres; and shall descend, pass, and go, with the residue of the said twelve hundred acres of land, in remainder and reversion, in the same manner, and under the same limitations, and to the same uses, as the said water grist-mill, and three hundred and ninety four acres of land are limited, by the before recited act of Assembly. Any law, statute, usage, or custom, to the contrary thereof, in any wise, notwithstanding.

VI. *Provided always,* That the execution of this act shall be suspended, until his majesty's approbation thereof shall be obtained.

CHAP. XLVI.

An Act for raising a Public Levy.

Taxes from
1742 to 1744.

I. **B**E it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the

same, That six pounds of tobacco be paid, by every tithable person within this dominion, for the defraying and payment of the public charge of the country; being the public levy from the sixth day of May, one thousand seven hundred and forty two, to the fourth day of September, one thousand seven hundred and forty four; and that it be paid by the collectors of the several counties, to the several persons and counties, respectively, to whom it is proportioned by this General Assembly: And if it shall happen, that there shall be more tithables in any county than the present levy is laid on, then such county shall have credit for so much, to the use of the county; and if fewer tithables in any county, then such county shall bear the loss.

II. *Provided always*, That where any allowance is made in the book of proportions, to any county, to be paid in the same county, no more per poll shall be collected, from the tithables of such county, than will discharge the ballance, after such allowance shall be deducted: And that every county court shall regulate the levy accordingly.

III. *And be it further enacted, by the authority aforesaid*, That the sheriff of every county shall, at the time of giving bond for the due collection and payment of the next county levy, also give bond and security, for the due collection and payment of the public levy, now laid and assessed.

AT A

General Assembly,

SUMMONED TO BE HELD AT

Wm. Gooch,
esq. Govern-
or.

The Capitol, in the city of Williamsburg, on Thursday the sixth day of May, in the fifteenth year of the reign of our sovereign lord George II, by the grace of God, of Great Britain, France, and Ireland, King, defender of the faith, &c And from thence continued, by several prorogations, to Thursday the twentieth day of February, in the nineteenth year of his said Majesty's reign, and in the year of our Lord, 1745: Being the third Session of this Assembly.

CHAP. I.

An Act, for reducing the laws made for laying a duty on Liquors, into one act of Assembly.

Preamble.

I. **W**HEREAS the several acts of Assembly, made for laying a duty upon Liquors, have, by experience, been found useful and beneficial, in lessening the poll-tax, by raising a fund for defraying part of the necessary expences of this government, and for the better support of the College of William and Mary, in this colony; which said acts will expire the tenth day of June, one thousand seven hundred and forty seven: And whereas, thro' the various alterations and amendments of the said acts, they are rendered difficult to be understood, whereby several penalties may be incurred by the more ignorant sort, for want of sufficient knowledge of the same; and this present General Assembly having thought it expedient that the said laws should be re-enacted, with some amendments, and reduced into one act:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That for every gallon of rum, brandy, and other distilled spirits; and for every gallon of wine, which, from and after the said tenth day of June, shall be imported or brought into this colony and dominion, either by land or water, from any port or place whatsoever, the duty or custom of two pence shall be paid, by the owner or importer of the same, for and during the term of four years: And that one other duty of one penny for every gallon of the said liquors, which shall be imported or brought into this colony, shall be paid, by the owner or importer thereof, for and during the term of eleven years: And for every gallon of cyder, beer, or ale, which shall be imported or brought into this colony and dominion, as aforesaid, from any port or place whatsoever, the duty or custom of one penny shall be paid, by the owner or importer of the same, for and during the said term of four years.

Duty on spirits & wine:

On cyder, ale and beer.

III. *Provided nevertheless, and it is hereby enacted and declared,* That no duty or custom whatsoever, shall be paid or required, for any of the liquors before enumerated, that shall come directly from Great-Britain; but all such liquors shall remain and continue exempt and free from any imposition, duty, or custom, imposed or required by this act, as if the same had never been made.

Saving as to liquors imported from Great-Britain.

IV. *And be it further enacted, by the authority aforesaid,* That the master or purser of every ship or other vessel, importing liquors liable to a duty or custom by virtue of this act, to any port or place within this colony and dominion, shall, within eight and forty hours after his arrival, make a true and just report, upon oath, with the collector of the duties upon liquors in the said port or place, of the burthen, contents, and loading of such ship or vessel, with the particular marks and numbers of every cask therein laden with liquors, and to whom consigned, to the best of his knowledge; and also where and in what port the same were laden and taken on board; upon penalty of forfeiting one hundred pounds current money.

Oath of master, &c.

V. *And be it further enacted,* That no liquors, liable to the said duties, imported or brought into this co-

Entry, how
made.

lony by water, by any person or persons whatsoever, shall be landed or put on shore, until due entry made thereof, with the collector of the duties upon liquors in such port or place, and a true account of the marks, numbers, and contents of every cask, at that port or place where the same was shipped or taken on board, given upon oath, either before the said collector, or some justice of the peace of this colony, who shall certify the same upon the back of the original invoice of such liquors, or a true copy thereof to him produced; and thereupon such importer, paying the duties laid by this act, or securing the payment thereof, shall obtain a permit, under the hand of such collector, for the landing or delivery of the same: And all liquors landed, put on shore, or delivered, contrary to the true intent and meaning of this act, or the value thereof, shall be forfeited and lost; and may be seised or recovered, by any officer of his majesty's customs, of the port or place where the same shall be put on shore, or delivered, or by any other person or persons whatsoever: And the owner or importer of any of the liquors aforesaid by land, shall, in like manner, make due entry of the same, within six days after the importation, with the collector appointed, in pursuance of this act, and give a true account of the quantity thereof, upon oath, and pay the duty hereby imposed, or give bond, with good security, for payment thereof, within six months; and thereupon obtain a permit, under the hand of the said collector, for selling or making use of the same. And all liquors imported by land, without such entry made, and permit obtained, or the value thereof, shall be forfeited; and may be recovered or seised by any collector of the said duties, or any other person whatsoever.

Forfeiture.

Permit to be
obtained by
importer.

Wines, how
entered.

VI. *Provided always*, That no person shall be required to give account, upon oath, of the true contents of any pipe or lesser cask of wine imported, but shall have liberty to enter a pipe at one hundred gallons, and all lesser casks after the same proportion: Any thing in this act to the contrary, notwithstanding.

Penalty for
false entry.

VII. *And be it further enacted*, That if any person or persons whatsoever, shall wittingly or willingly, make a false entry, and be thereof convicted, such person or persons shall forfeit and pay one hundred pounds current money.

VIII. *And be it further enacted*, That the collectors ^{Duty of collectors.} of the duties or customs upon liquors, or any person by them appointed, shall have full power and authority to go and enter on board any ship or other vessel, and from thence to bring on shore any liquors liable to a duty by virtue of this act, if such duty be not paid or agreed for within ten days after the first entry of such ship or vessel, or bond with good and sufficient security given, for payment of the same, within six months next after such entry; which bond, if offered, the collector ^{Bribery.} is hereby authorised and required to accept and take; and such liquors so brought on shore, to secure and detain, until due entry and payment made, or security given for the same, as aforesaid; and they are also empowered to stay and remain on board such ship or vessel, until all such liquors be discharged and delivered out of the same: And if any collector or collectors of the said duties, or any other person or persons, deputed or appointed by them, or any of them, shall, directly or indirectly, take or receive any bribe, recompence, or reward, in any kind whatsoever; or shall connive at any false entry of liquors, liable to a duty or custom by virtue of this act; the person or persons so offending, shall forfeit and pay the sum of one hundred pounds current money, and be for ever afterwards disabled in his said office, and rendered incapable of holding any office or employment relating to the customs, within this colony; and the person or persons giving or offering such bribe, reward, or recompence, shall forfeit and pay one hundred pounds current money.

IX. *And be it further enacted*, That it shall be law ^{Power of collectors, in breaking doors, &c.} ful to and for all and every collector and collectors of the duties upon liquors, by warrant under the hand of a justice of peace, (which warrant shall not be granted, but upon an information made to him, upon oath,) and accompanied with a constable, to break open, in the day time, any house, warehouse, or storehouse, to search for, seise, and carry away any liquors, liable to a duty by this act, and for which the said duty shall not have been paid, or secured as aforesaid: And if any collector or constable shall be sued or molested for any thing done in execution of the powers hereby given them, such collector or constable may plead the general issue, and give this act in evidence: And if

in such suit the plaintiff be nonsuit, or judgment pass against him, the defendant shall recover double costs. And in all actions, suits, or informations to be brought, or where any seizure of liquors shall be made, if the property thereof be claimed by any person as the importer or owner thereof, in such case the *onus probandi* shall lie upon such owner or claimer.

Onus probandi.

Duties, how paid.

X. *And be it further enacted*, That when any liquors shall be consigned to any person, other than the master or owner of the ship or vessel importing the same, every such person to whom such liquors shall be so consigned, shall, upon the importation thereof, pay to the master or owner of the ship or vessel importing the same, the duty payable for such liquors, by this act: And if any person or persons to whom such liquors shall be consigned, as aforesaid, shall refuse or neglect to pay the said duty, or give bond with security, for the payment thereof, to the master or owner of the ship or vessel importing the same, at such time as the same shall become payable; it shall and may be lawful for the master or owner of such ship or vessel, to detain such liquors until the duty shall be paid, or secured to be paid, as aforesaid.

Drawback

XI. *Provided always, and it is hereby enacted and declared*, That if the owner or importer of any liquors, of which the duties or customs shall be paid, or secured to be paid, within six months after the importation thereof in this colony and dominion, be desirous to export the same, or any part thereof; in such case, the person intending to export the same, shall give a particular account of the marks, numbers, and contents of the casks or vessels containing the liquors he intends to export, to the collector of such district from whence the same is to be shipped for exportation, together with the name or names of the person or persons from whom the same was bought; and shall subscribe it also, and make oath thereto before the said collector; at which time he shall also declare, upon oath, that the said liquors shall be directly carried out of this dominion, and not sold, delivered, or put on shore within the same, or brought back again, without making a new entry, and paying the duty; and shall also deliver, to the collector aforesaid, an account in what vessel the same was entered, at importation, with the oath of the person or persons by whom it was imported.

Oath of exporter.

ted, that the duty or custom thereof was, at the time of entry, duly paid or secured to be paid, according to law; and then it shall and may be lawful for the collector where the duty or custom for the same was paid, or secured to be paid, and he is hereby required and enjoined to allow the said exporter the whole duty or custom paid, or secured to be paid, for the said liquors, so to be exported: Any thing in this act to the contrary, notwithstanding. But if any person or persons shall export liquors on which there is a drawback, to the province of Maryland, before such person exporting the same shall be intituled to the drawback thereof, he shall produce to the collector of the duties from whose district the same was exported, a certificate, under the hand of the officer of the customs in Maryland, that the said liquors were entered and landed there.

If to Mary-
land.

XII. *And be it further enacted*, That no drawback shall be allowed to any person or persons, exporting liquors out of this colony by land: Any clause herein contained to the contrary, notwithstanding.

No draw-
back, if ex-
ported by
land.

XIII. *And be it further enacted, by the authority aforesaid*, That if any importer of the liquors in this act mentioned, shall desire to transport the same from one district to another, within this colony, he shall, before he depart out of the district wherein such liquors shall be laden or taken on board, make oath, before the collector of the duties in the said district, or some justice of the peace, that he hath duly entered such liquors, and paid, or secured to be paid, all the duties by this act imposed; and also deliver, upon oath, an account of the true quantity so taken on board, to be transported; and that he will not take, or suffer to be taken on board the said ship, boat or other vessel, any more liquors than in the said account shall be specified, and shall likewise take a certificate from such collector, or justice of the peace, of the quantity of liquors then on board, and that such oath hath been made thereto; which certificate being produced to the collector of the duties in the district to which the said liquors shall be transported, shall be a sufficient warrant for the owner thereof to sell the same in such other district: And all liquors on which there is a duty, which shall be transported by water, from one district to another, and landed or sold, without producing such certificate as aforesaid, to the officer into whose district

Liquors, how
sent from
one district
to another.

Penalty.

the same shall be transported, shall be liable to be seized and forfeited.

Money, premium for importing.

XIV. And for an encouragement to import money into this colony and dominion. *Be it further enacted,* That if any person or persons shall pay any of the impositions, duties, or customs, accruing due by virtue of this act, in good and lawful money, of his or their own importation into this dominion, and shall make oath, that he or they did import the same, and did not carry it out of this colony, with an intent to bring it back again, and that it was not exchanged in any adjacent province, for monies carried out of this colony, with intent to obtain any benefit thereby, such person or persons, upon producing a certificate of such oath, shall have an abatement and allowance of fifteen *per cent.* in all duties so paid and satisfied; and every collector of the said duty is hereby authorised and required to make such allowance, until such sum or sums of money imported, shall be paid away; and upon payment of any lesser sum than is mentioned in the said certificate, to such collector of the duties upon liquors, such collector shall indorse the sum by him received, on the back of such certificate.

Duty-bonds, how prosecuted.

XV. And for preventing delays in the payment of the said duty, *Be it enacted, by the authority aforesaid,* That where any person shall become bound for the payment of the said duties upon liquors, and shall not pay the same at the time limited, whether such bond be payable to the king, or the collector of the said duties, it shall and may be lawful to and for the collector, to sue out of the general court, or the court of the county wherein such person or his securities respectively reside, one or more writ or writs of *Scire Facias*, in the name of the king, his heirs and successors, returnable to the said court, against the person or persons chargeable with the said duties, and his or their securities, their executors or administrators, to shew cause why execution ought not to issue against him, them, or any of them, for the duties so unpaid, and thereupon to sue out execution accordingly.

Appropriation of forfeitures. How recoverable.

XVI. *And be it further enacted,* That the several forfeitures and penalties which shall or may arise, by virtue of this act, shall be divided into three equal parts; one third part thereof shall be to our sovereign lord the king, his heirs and successors, for and

towards the better support of this government, and the contingent charges thereof; one third part to the governor of this colony, for the time being, to and for his own proper use and behoof; and the other third part to him or them that will inform or sue for the same; to be recovered, with costs, by action of debt, bill, plaint, or information, in any court of record within this colony and dominion; wherein no essoin, protection, or wager of law shall be allowed.

XVII. *And be it further enacted*, That the governor or ^{Collectors} commander in chief of this colony, for the time being, ^{how appointed.} with the advice of the council, shall be, and is hereby empowered, from time to time, and at all times hereafter, to nominate, constitute, and appoint such and so many collectors of the duties laid by this act, upon liquors, and also such salaries, not exceeding six in the ^{Salary.} hundred, for collecting the said duties, as to him shall seem best.

XVIII. *And be it further enacted, by the authority a-* ^{Collectors to} *foresaid*, That all and every such sum or sums of ^{account with} money, which shall be raised, collected, and levied, by ^{and pay to} the said duties, the necessary charges of collecting, ^{treasurer.} managing, and accounting for the same, always excepted, shall, from time to time, be accounted for and paid, by the respective collectors thereof, to the treasurer of Virginia, for the time being, upon oath; which oath the said treasurer is hereby empowered to administer; and by the said treasurer accounted for to the General Assembly of this colony, upon oath: And that all and every such sum and sums of money, ^{Duties appropriated;} which shall be raised, collected, and levied, by the said duties of two pence for every gallon of wine, rum, brandy, and other distilled spirits; and one penny upon every gallon of cyder, beer, and ale, over and above the necessary charges aforesaid; are, and shall be ^{In aid of the} appropriated, issued, applied, and disposed to such use ^{taxes;} or uses, as the General Assembly, from time to time shall think fit to direct, for lessening the levy by the poll, or defraying any public expence, and to and for no other use whatsoever. And that all and every sum and sums of money, to be raised and levied out of the ^{For relief of} duty of one penny upon every gallon of wine, rum, ^{Wm. & Ma-} brandy, and other distilled spirits, by this act imposed, ^{ry college;} as aforesaid, is, and shall be appropriated to the relief of the college of William and Mary, in this colony,

And to be
accounted
for to the
Assembly.

Governor's
Maderia ex-
empt from
duty.

Collectors
when to ac-
count.

for and during the said term of eleven years; and shall be paid, by the said treasurer, half yearly, in equal portions, unto the president and masters of the college, and their successors; and shall be applied and disposed of for the founding scholarships, and such other good uses, for the better support of the college, as by the visitors and governors of the said college, or the greater part of them, shall, from time to time, be directed and appointed, and not otherwise; and shall be accounted for to the Assembly.

XIX. *And be it further enacted, by the authority aforesaid, That all Madeira wine, imported by his majesty's lieutenant governor, or the governor and commander in chief of this colony, for the time being, not exceeding ten pipes in one year, for his own use, be, and are hereby exempted from the payment of the duties imposed upon wine imported: Any thing in this act contained to the contrary, notwithstanding.*

XX. *And be it further enacted, That all collectors of the duties imposed by this act, be, and are hereby required to account with the treasurer, every half year, (to wit,) on the twenty fifth day of April, and the twenty fifth day of October, in every year, or within fifteen days afterwards; upon pain of forfeiting one half of their commissions, to be deducted out of their accounts by the treasurer, and by him carried to the credit of the public treasury.*

CHAP. II.

An Act, for continuing the Act, intituled. An Act, for laying a duty upon slaves, to be paid by the buyers.

Preamble.

I. **W**HEREAS, by an act of Assembly, made in the fifteenth year of the reign of his present majesty, intituled, an act, for continuing the act, intituled, an act, for laying a duty upon slaves, to be paid by the buyers, several other acts therein mentioned, were confirmed and further continued; all which will expire on the last day of July, in the year of our lord one thousand seven hundred and forty seven: And the said duty having, by experience, been found easy to the subjects of this colony, and no ways burthensome to the traders in slaves, and at this time very

necessary to be continued, for supporting the public expence:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said recited act, and the several acts therein mentioned, for so much thereof as relates to the duty upon slaves, shall continue and be in force, from the said last day of July, one thousand seven hundred and forty seven, for and during the term of four years, thence next following, and no longer.*

Former acts continued.

CHAP. III.

An Act, to amend the act, for establishing the General Court; and for regulating and settling the proceedings therein.

I. **W**HEREAS, by one act of Assembly, made in Preamble. the fourth year of the reign of the late queen Anne, intituled, An act, for establishing the General Court; and for regulating and settling the proceedings therein, it is, among other things, enacted, That the said General Court shall be held two times every year, (to wit,) one court shall begin upon the fifteenth day of April, if not on a Sunday, and then on the Monday thereafter, and shall continue to be held eighteen natural days, Sundays exclusive; and the other court shall begin on the fifteenth day of October, if not on a Sunday, and then on Monday thereafter, and shall continue to be held eighteen natural days, Sundays exclusive: And whereas the business of the said court is, of late, so greatly increased, that the times aforesaid are not sufficient to go through the same; and thereby suitors are much delayed and put to great charges: For remedy whereof,

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same, That for the future, one of the said courts shall begin upon the tenth day of April, if not on a Sunday, and then on the Monday thereafter, and shall continue to be held twenty four natural days. Sundays exclusive; and the other court shall begin upon the tenth day of October,*

Terms of general court:

if not on Sunday, and then on the Monday thereafter; and shall continue to be held twenty four natural days, Sundays exclusive.

Power of adjournment.

III. *Provided always*, That if the business of the said court shall be ended in less time than the days appointed by this act for the judges or justices of the said court to sit, in such case it shall be lawful for them to adjourn themselves until the next succeeding General court.

Days appropriated for chancery & common law suits.

IV. *And be it further enacted, by the authority aforesaid,*, That the first five days of every General Court, be appointed for hearing and determining suits in chancery depending in the said court, appeals from decrees of the county courts, or other inferior courts, in chancery, and writs of *supersedeas* to such decrees; and that the other days be appointed for trying suits or prosecutions, on behalf of his majesty, and all other matters whatsoever, there depending; and the clerk of the court is hereby required to regulate the Docket accordingly, proportioning the said suits and causes to such of the said days as will be most convenient: And that instead of the return days, now by law established, process at the suit of his majesty on criminal prosecutions, be returnable to the sixth day of every General court; process on petitions for lapsed land, to the seventh day; appeals from decrees in chancery obtained in county courts, or other inferior courts, to the third day; appeals from judgments of the last mentioned courts, to the eighth day, instead of the sixth day; to the ninth day, instead of the seventh day; to the tenth day, instead of the eighth day; to the eleventh day, instead of the ninth day; and to the twelfth day, instead of the tenth day: And that all writs of *supersedeas*, and writs of error, to such decrees or judgments, be returnable to the same day as appeals therefrom; and all other writs of *subpœnas* in chancery, and other process, to the first and twentieth days of every General court.

Docket, how made up.

Repealing clause.

V. *And be it further enacted, by the authority aforesaid,* That so much of the said recited act, and of any other act, as is contrary to this act, be, and the same is hereby repealed, and that this act shall commence and be in force, on the last day of May next.

CHAP. IV.

An Act, for the revival of the Laws.

I. **W**HEREAS the acts of Assembly of this colony, Preamble.
lie in great disorder and confusion, by reason many of them are altered and explained, and others repealed: And whereas it is necessary that the said laws should be revised, and a new impression thereof made, but such revisal cannot conveniently be effected during the session of an Assembly, without bringing a great and extraordinary charge upon the inhabitants of this dominion; and it will be the most proper and easy method to perform the same, by appointing a joint committee of the Council and Burgesses, to begin and compleat the same:

II. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That* Revisal of the laws.
John Robinson, John Blair, and William Nelson, esquires, members of his majesty's honourable council; John Robinson, esquire, Mr. Secretary Nelson, Richard Randolph, William Beverley, Beverley Whiting, and Benjamin Waller, gentlemen, members of the house of burgesses, or any six of them, whereof two to be of the council, and four of the house of burgesses, shall be, and are hereby appointed a committee, for the revisal of the whole body of the laws of this his majesty's colony and dominion; and that George Webb, gentleman, be clerk of the said committee: Which Power of.
committee, by virtue of this act, shall have full power and authority, to revise, alter, and amend, all or any of the said laws, and reduce the same into bills, in such manner and form as they shall think fit and necessary; which said bills shall, by the said committee, be reported to the next meeting of the Assembly after the said laws shall be fully revised. And to prevent any delay which may happen, in the proceedings of the said committee, by reason of the death, departure out of the colony, or any other disability of the members thereof;

III. *Be it further enacted by the authority aforesaid, That the number of three councillors, and six burgesses, to constitute the said committee, shall, from* What member may act.

Vacancies
how suppli-
ed.

time to time, be kept full and entire: And if any member of the council, appointed to be of the said committee, be so disabled, another member of the council shall and may be appointed, in his stead and place, by the governor or commander in chief, for the time being: or if any member of the house of burgesses, appointed to be of the said committee, shall be so disabled, then the speaker of the house of burgesses, or in case of his death or disability, the major part of burgesses of the said committee which shall be present at the next meeting after such disability, shall be, and are hereby empowered, to elect and choose a burgess or burgesses, to supply the place and stead of the burgess or burgesses so disabled; which said councillor or councillors, burgess or burgesses, so appointed and chosen, shall be, and are hereby declared, members of the said committee, as if he or they had been, by this act, particularly nominated and appointed: And in case of the death or disability of the said clerk, the greater part of the said committee, who shall be present at the next meeting after such disability, shall have power to choose and appoint another in his stead.

Proviso.

IV. *Provided always*, That no person whatsoever, either Councillor or Burgess, shall be enabled or admitted to give any vote, or have any voice, at any of the meetings of the said committee, other than those persons who are or shall, from time to time hereafter, by virtue of this act, be appointed or chosen to attend, as members of the said committee.

'Where to
meet.

V. *And be it further enacted, by the authority aforesaid*, That the said committee shall meet, at the city of Williamsburg, upon the fourth Monday in July next, and shall sit, from day to day, as long as they shall think necessary, at any of their meetings; and all adjournments, other than the next day, not being Sunday, shall be made to the fourth Monday of every succeeding month: And if the revisal of the whole body of the laws, be not completed by the end of the said meeting of the said committee in November next, then they shall have full power and authority, by virtue of this act, to adjourn themselves to the fourth Monday in March following; and then afterwards shall proceed, from month to month, in manner as is before expressed.

VI. *Provided always*, That if by badness of weather, sickness, or other accidents, it should so happen, that a full number of the said committee should not meet, sufficient to act as a committee, or to adjourn, at any of the time or times before expressed, the said committee shall not be thereby discontinued; but they shall and may meet and act the next day following, or on the fourth Monday in the next month, as if the said committee had really and actually adjourned themselves to that time: And also, if any member or members of the said committee, either Councillor or Burgess, shall be disabled in manner aforesaid, the said committee, or the greater part of them present at the next meeting after such disability, shall judge of the said disability; and if they find it necessary, shall make application to the governor or commander in chief for the time being, or to the speaker, for the filling up of such number, in manner aforesaid; and until such application be made, the governor or commander in chief, for the time being, or the speaker, may not appoint any such member or members, in manner aforesaid: Any thing in this act to the contrary, in any wise, notwithstanding.

No discontinuance.

New members how admitted.

VII. *And be it further enacted, by the authority aforesaid, and it is hereby enacted*, That if this present General Assembly should be hereafter dissolved, before the whole body of the laws of this his majesty's colony and dominion be revised, the said committee shall not be thereby discontinued; but the governor or commander in chief of this his majesty's colony and dominion, for the time being, and the speaker of the present house of burgesses, or in case of his disability, the greater part of the committee then sitting, shall and may appoint any member or members of the council, or any burgess or burgesses of the present house of burgesses, in case of any disability, as aforesaid, in manner aforesaid, as if the said Assembly had never been dissolved.

Not to be discontinued by dissolution of Assembly.

VIII. *And be it further enacted, by the authority aforesaid, and it hereby enacted*, That the said committee shall be, and is hereby authorised and empowered, to send for any persons, papers, records, or copies of records, by warrant, under the hand of any one of the council, and two of the burgesses of the said committee: And if any officer, or other person or per-

Power of committee to send for persons, papers and records.

sons, shall neglect or refuse to obey any such warrant, as aforesaid, he or they so offending, and being thereof lawfully convicted, shall, for every such offence, forfeit and pay the sum of twenty pounds Sterling, to the king's most excellent majesty, his heirs and successors, for and towards the defraying the charge of the said revisal; and to no other use, intent, or purpose whatsoever: To be recovered by action of debt, or information, in any court of record in this his majesty's colony and dominion; in which no essoin, protection, wager of law, privilege, or imparlance, shall be admitted or allowed.

Present laws to remain in force, till altered by Assembly.

IX. *Provided always, and it is the true intent and meaning of this act,* That notwithstanding the powers given by this act, to the said revisors, the laws of Virginia shall stand, remain, and be in force, as now they are, until they shall be repealed, abrogated, made void, amended, or altered, by act of Assembly; and that all bills, of what nature soever, that shall be reported by the said committee of revisors, as aforesaid, shall be construed and deemed not to have any force or authority until they have had their formal readings, and are made laws by an Assembly: Any thing in this act to the contrary, in any-wise, notwithstanding. And that the services of the said committee, and clerk, with all reasonable and incident charges, be, at the next session of Assembly, considered, rewarded, and allowed; and so from time to time, as they shall report to the succeeding Assembly or Assemblies, till all the laws be revised, as aforesaid.

Report of revisors to have formal readings, &c.

CHAP. V.

An Act, for further amending the Act, intituled, An Act, for reducing the Laws made for amending the Staple of Tobacco; and for preventing frauds in his majesty's customs into one Act of Assembly.

Preamble.

I. **W**HEREAS by an act, made in the fifteenth year of the reign of his present majesty, intituled, An act, for reducing the laws made for amending the Staple of Tobacco; and for preventing frauds in his majesty's customs, into one act of Assembly, among other things it is enacted, That the inspectors

shall make every hogshead of Tobacco, paid away in discharge of any transfer note by them given, to contain eight hundred and fifty pounds nett; and it being now found expedient to alter the same, and prize Tobacco to a greater weight:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That all inspectors, from and after the ninth day of November next, shall, and they are hereby obliged to make every hogshead of Tobacco by them paid away, in discharge of transfer notes by them given, to contain nine hundred and fifty pounds nett at the least; and where any light crop Tobacco shall hereafter be passed, the inspectors passing the same shall, if required, as soon as they conveniently can, without fee or reward, permit the owner thereof, or other person, to make use of one or more of their prizes, to make the same heavier. And whereas, by reason of the large quantity of Tobacco brought to the warehouses at Page's, on Pamunky river, it is thought necessary to have another inspection at or near that place:

Transfer to tobacco to be made crop.

III. *Be it therefore enacted, by the authority aforesaid,* That from and after the said ninth day of November, a public warehouse be erected at Crutchfield's upper landing, on the land of Mann Page: And that the rent thereof be eight pence per hogshead.

Warehouses established.

IV. *And be it further enacted,* That the warehouses at Hog-Neck, in James-City, county, and at the Brick-House, in New-Kent county, now under one inspection, be disjoined, and made two inspections:

Warehouses disjoined.

V. And for the better settlement of the salaries of the inspectors hereafter mentioned, *Be it further enacted,* That the same be established for each inspector according to the following rates:

Inspectors salaries.

	<i>Pounds per annum.</i>
At Page's,	40
At Crutchfield's upper landing,	40
At the Brick House,	25
At Hog Neck,	20

VI. And whereas large quantities of Tobacco have been damaged, by the flowing of the tide into many warehouses; for prevention whereof for the future, *Be it enacted, by the authority aforesaid,* That where any public warehouse is built so near any river, or

What warehouses to have floors raised.

creek, that the Tobacco brought thither may be in danger of being destroyed, by the overflowing of such river and creek, the respective courts of the counties where any such warehouse or warehouses, are, shall, and are hereby authorised and required, to direct the floor or floors of such warehouse or warehouses, to be raised, in such manner as to them shall seem best.

CHAP. VI.

An Act, for the better regulating and collecting certain Officers Fees; and other purposes therein mentioned.

I. **BE** it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That from and after the commencement of this act, it shall and may be lawful to and for the secretary of this colony, for the time being, and all county court clerks, sheriffs, coroners, constables, and surveyors, respectively, to demand, receive, and take the several fees herein after mentioned and allowed, for any business by them respectively done, by virtue of their several offices, and no other fees whatsoever: That is to say,

To the Secretary.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Secretaries f.c. For making out, sealing, and recording, at large, a patent for land, before the same shall be recorded,	0	8	0
For making out, sealing, and recording, at large, a patent commonly called a double patent; before the same shall be recorded,	0	12	0
For parchment for every patent.	0	2	6
For recording every warrant to an escheat; and the inquisition thereupon,	0	11	6
For a copy thereof, the same,			
For every pass.	0	10	0
For every freedom for a ship or vessel,	0	10	0
For every testimonial,	0	10	0
For every writ, in the nature of an <i>Al quod</i>			

<i>Damnum</i> , to be paid upon issuing such writ,	0	5	0
For recording the same, with the inquisition thereupon, to be paid before inquisition be recorded,	0	11	6
For a copy of such writ, and inquisition, to be paid down,	0	5	0

Pounds of Tobacco.

For taking a bond, upon issuing injunctions in chancery,	25
For a copy of a double patent,	40
For a copy of any other patent,	30
For the probation of any testament, and recording the same; for entering the orders for appraising the estate, recording the inventory, writing and sealing the probate, or any other matters concerning the same; or for a commission of administration of the goods of any person dying intestate; for entering the order or orders for appraising the estate, recording the inventory, or for any other matter concerning the same, where the appraisement doth not amount to above one hundred pounds,	200
Or where the appraisement exceeds one hundred, and is under five hundred pounds,	300
Or where the appraisement exceeds five hundred pounds, or there is no appraisement,	400
For a copy of a probate, or commission of administration,	40
For recording the certificate of a probate, or administration,	40
For a copy of a will, or inventory,	40
And if the original is contained in more sheets than one, for a copy of every such sheet,	30
For every hue and cry, signed by the governor,	30
For a copy of an act of Assembly,	40
For a copy of an account,	20
For recording of a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the General Court,	150
For a copy of such deed or deeds, with the in-	

dorsements thereon; and for a certificate of the acknowledgment or proof, and recording,	90
For issuing a commission to take the acknowledgment and privy examination of a feme covert, and recording it, with the return of the commissioners,	50
For a copy thereof,	30
For recording a deed concerning slaves, or any personal matter only,	70
For a copy thereof, with a certificate of the acknowledgment or proof, and recording,	40
For recording a letter of attorney, acknowledged and proved in the General Court, and every thing relating to it,	70
For a copy thereof,	40
For recording a bond, with condition, other than for performance of covenants in deeds of conveyance, or settlement of land,	40
For a copy of a bond, with condition,	20
For recording a certificate of rights,	15

In Actions, and other Suits.

For every <i>dedimus potestatem</i> , writ of error, <i>superseas</i> , or <i>scire facias</i> ,	25
For taking bond, on issuing a writ of error, or <i>superseas</i> ,	25
For every other writ, in any action or suit whatsoever,	20
For entering the sheriff's return, and entering the bail by him returned, in the rule book,	20
For entering special bail,	20
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	10
For entering security for costs for persons out of the country,	20
For filing a declaration, and every plea or demurrer, in any cause, to the making up of the issue, and for filing errors upon appeals, writs of error, or <i>superseas</i> ,	20
For a copy of every declaration, plea, or demurrer, or of errors,	20
For every rule, entered in the rule book,	10

For a copy of every rule,	10
For every order in court, before tryal,	10
For a copy of the same,	10
For filing papers of each party, in any action or suit,	15
For docketing every cause on the docket, to be charged but once,	10
For every tryal, swearing the jury and witness- ses, and recording a general verdict,	50
For administring an oath or affirmation in court, except witnesses, to a jury,	10
For every tryal where there is a special verdict, swearing the witnesses; and jury, and recor- ding such verdict,	75
And where there is no jury, but a case agreed,	25
For swearing witnesses for each party in every cause, where there is no jury,	15
For a copy of a case agreed, or notes of a spe- cial verdict,	25
For entering every order made in court, after verdict or demurrer joined,	10
For entering every continuance on the court docket,	10
For entering every judgment,	10
For recording the report of auditors, when it is desired,	40
For making a compleat record in every cause, inserting a case agreed, or special verdict at large from the notes; and all deeds and o- ther evidences at large; for every twenty words,	1
For a copy thereof, or any part thereof, the same.	
For filing bill, answer, replication, or other pleadings in chancery, each,	15
For a copy thereof, for every twenty words,	1
For entering every decree,	10
For drawing up every decree at large, entering the substance of the bill, answer, and other pleadings, the substance of the evidence, and the decree thereupon, for every twenty words.	1
For filing the depositions in every cause, in be- half of each party.	15

For a copy of the depositions, for every twenty words,	1
For a recognizance in court,	20
For entering an appeal to England and taking bond,	50
For filing the record upon an appeal, writ of error, or <i>supersedeas</i> , from a county court, or any inferior court,	15
For a copy of such record, for every twenty words,	1
For filing the return of a <i>certiorari</i> , or <i>habeas corpus</i> ,	15
For taxing the costs in any action or suit, and a copy thereof,	20
For every petition for lapsed land, for writing it, and issuing a summons thereon,	50
For every order thereon,	15
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	1
For a search for any thing, if above a year's standing, or reading the same, or any part thereof, if required,	10
For every order to a witness for attendance, to be charged to the party against whom such order goes,	10
<p>II. Which said several fees herein before expressed, shall be charged to the party at whose instance the business shall be performed, except where it is otherwise directed: And that the fees herein after mentioned and allowed to the secretary, shall be charged to the several counties respectively for whose service the business shall be performed; and shall be by the justices levied on the inhabitants thereof: That is to say,</p>	
For a commission of the peace, and <i>dedimus</i> , to administer the oaths and recording the same,	160
For a commission of <i>oyer</i> and <i>terminer</i> , and <i>dedimus</i> , to administer the oaths, to be repaid the county by the public,	100
For a writ for electing of Burgesses,	350
For filing an inquisition, on view of a dead body, and recording the same; which shall be repaid the county out of the estate of the deceased, if sufficient,	50

*To the County Court Clerks.**Pounds of Tobacco.*

For taking a bond upon issuing injunctions in chancery,	20	County court clerks fees.
For recording deeds of lease and release, for conveying or settling of lands only, or together with slaves and personal estate; bond to perform covenants; certificate of the proof, or acknowledgment, as the case is; and all matters relating thereto,	150	
For a copy thereof,	55	
For recording every deed of feoffment, or bargain and sale, or other single deed, for conveying or settling lands and tenements only, or together with slaves and personal estate; bond to perform covenants; certificate of the proof, or acknowledgment, as the case is; and all matters relating thereto,	100	
For a copy thereof,	40	
For issuing and recording a commission to take the acknowledgment and privy examination of a feme covert, with a certificate of the commissioners, if such commission be required,	40	
For a copy thereof,	20	
For recording a patent,	50	
For a copy thereof,	25	
For recording a deed for land from the proprietors of the Northern Neck,	50	
For recording a deed concerning slaves, or any personal matter or thing only, with the certificate of its proof for acknowledgment,	40	
For a copy thereof,	30	
For recording a letter of attorney,	30	
For a certificate of the proof or acknowledgment thereof,	10	
For a copy of a letter of attorney, with such certificate,	25	
For recording a bond, with condition, other than for performance of covenants in deeds of conveyance, or settlement of lands,	20	
For a copy of a bond, with condition, other than an appeal bond, the same.		
For a copy of any other obligation or promissory note,	10	

For the probation of any will or testament, and recording the same; entering the order or orders for appraising the estate; and for any other matter concerning the same, where the will shall be contained in one sheet,	40
And if the will is contained in more than one sheet, for every such sheet,	20
For a commission of administration of the goods of any person dying intestate; for entering the order or orders for appraisement; and for any other matters concerning the same,	40
For recording an inventory, where the appraisement doth not amount to above ten pounds,	10
Where the appraisement exceeds that value, and is under fifty pounds,	50
And where it shall exceed fifty pounds, and is under one hundred pounds,	100
And where it shall exceed one hundred pounds, or there is no appraisement,	250
For a copy of a will or inventory, if the original is contained within one sheet,	30
If the original is contained in more sheets than one, for a copy of every such sheet besides the first,	20
For a copy of an act of Assembly,	40
For recording the age of a servant or slave, adjudged in court,	10
For a certificate thereof if required,	8
For a certificate of any person's departure out of the country,	15
For attending a court for examination of criminals, and trial of slaves, if the court is held for that purpose; to be paid by the county and repaid by the public,	200
For a copy of a list of tithables, taken by a justice in his precinct,	20
For the whole fee for an ordinary license and bond,	50
For a copy of the rates of liquors,	15
For a marriage license, certificate, and bond,	50
For proving rights for land, produced at one time, and belonging to one person, and certificate thereof,	15
For every search for any thing, above a year's	

standing,	5
For reading any thing, if a copy be not required,	5

*In Actions and other Suits.**Pounds of Tobacco.*

For every writ, other than such as are herein after particularly mentioned,	10
For a copy of such writ,	5
For every writ of execution, or <i>scire facias</i> ,	15
For a copy thereof	8
For recording the return thereof,	8
For a writ of attachment, in any action,	15
For recording the return thereof,	15
For an attachment, granted by a justice of the peace, returnable to the court, and recording the return, and putting the same on the docket,	20
For every summons, to summon a garnishee on such attachment,	10
Filing every bail bond, or entering the bail returned,	10
For docketing every cause, except by petition, to be paid but once,	5
For a copy of the return of any writ,	3
For entering special bail,	10
For entering security for costs, for persons out of the country,	10
For entering the appearance of the defendant or defendants, where there is no attorney in any suit, except by petition,	5
For entering one or more attornies for each party,	5
For every petition, declaration, or other pleadings, except in suits by petition, for debt, detinue, assumpsit, or trover,	10
For a copy of any declaration, special pleading or demurrer,	10
For a copy of a plea, if the general issue,	3
For every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict,	40
For every trial, where there is a special verdict,	

or case agreed, and recording the same,	65
For swearing the witnesses in every other cause, where there is no jury or case agreed, except by petition,	10
For filing the papers of each party, in every cause except by petition, and where there is a jury or case agreed,	10
For a copy of a special verdict, or case agreed, and every thing therein set forth, or for making up a full and complete record, for every thirty words,	1
For entering every judgment, or for a copy thereof,	10
For filing a bill, answer, replication, and other pleadings in chancery, for each,	10
For a copy thereof, for every thirty words,	1
For a commission to examine witnesses,	25
For attending, and writing depositions taken against inspectors, before justices of the peace,	100
For entering every decree in chancery,	15
For filing the depositions in any suit, for each party,	5
For every deposition taken in court,	10
For a copy of a deposition,	10
For administering an oath in court, not relating to the trial of any cause there depending, and certifying the same,	10
For every recognizance in court,	10
For entering the order or orders, in any cause, in one court,	15
For entering every order for attendance of witnesses,	10
For a copy of any order,	10
For recording the report of a jury, in the county, surveyor, auditor, or viewers.	20
For a copy thereof,	20
For taxing costs, to any judgment or decree, where costs are recovered, or for a copy of a bill of costs, if required,	11
For a copy of an account,	10
For entering an appeal, and taking bond to prosecute it,	20
For a copy of the bond,	10
For returning an appeal, and security, to the secretary's office,	

For returning writ of error, <i>supersedeas</i> , <i>certiorari</i> , or <i>habeas corpus</i> .	20
For a copy of the proceedings of the cause, wherein the appeal is granted, for every thirty words,	1
For recording the acknowledgment of satisfaction of a judgment,	10
For entering each order, for a witness's attendance, to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover,	10
For a copy thereof to be taxed and charged in like manner,	10
For an attachment thereon, to be charged to the party against whom such attachment shall be issued,	10
For the whole fee chargeable, for every petition, for debt, detinue, assumpsit, or trover, and all the proceedings therein, including a copy of the judgment, and taxing costs, if required, except the respective fees, for summoning witnesses, entering attornies, for every order for continuance, and for issuing execution, where any of those matters happen,	50
For entering an attorney in such petitions, to be paid by the party by whom such attorney shall be employed, and not to be taxed in the bill of costs,	5
For a summons for several witnesses, living in one county, if summons's for all be taken out at one time,	10
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	1
For the acknowledgment and proof of any deed, in the county court, and for certifying the same, to be recorded in the General Court,	30

III. And if any plaintiff, or defendant, or his or her attorney, shall take out copies, of his or her own declaration or pleadings, or of his or her own papers, in any cause, or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although such party recover: And where more attornies than one shall be employed, in any cause

Costs of copies.

on one side, if such attornies take out more than one copy of any thing, necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; neither shall the clerk tax any fee, in the bill of costs, for entering any more than one attorney, although costs shall be adjudged against the adverse party.

For all public services of the clerk, viz. entering and issuing copies of orders, for appointing surveyors of high ways, appointing constables, grand juries, taking the list of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy, and copies thereof, and of the list of tithables for the collector; and for entering and issuing the orders, except against guardians, where they shall stand out in contempt, to be charged to such guardian; and issuing the orders for recommending sherifs, and justices and for processioning, and all other public services, for which no particular fee is allowed: To be levied annually, by the justices of the county, besides cask,

1200

IV. And when any person or persons, presented by the grand-jury, or prosecuted by the church-wardens, shall be discharged from any such presentment or prosecution, the clerk shall charge no fees for the same, or any matter relating thereto; but the same shall be deemed to be included in the public services: But if the party or parties so presented or prosecuted, shall be convict, then in such case, the clerk shall charge him, her, or them, so convict, with all the fees accruing thereon.

On suits bro't by treasurer, V. And where the treasurer, for the time being shall prosecute or sue any person or persons, for duties due or owing to him, and shall recover judgment against him, her, or them, the clerk of the court wherein such suit shall be brought, shall, and is hereby required, to charge all the fees accruing thereon, to the person or persons against whom such judgment shall be obtained: And no county court clerk shall charge any fee, for making up a complete record, unless it be in causes where the title or bounds of land are determined, or when he is to transmit the trans-

On making up records.

cript of the record of any cause to the secretary's office, upon appeals, or writs of error, *habeas corpus*, *supersedeas*, or *certiorari*.

VI. And to the end, all persons chargeable with any of the fees aforesaid, may certainly know for what the same are charged: *Be it further enacted*, That none of the fees herein before mentioned, shall be payable, by any person whatsoever, until there shall be produced, or ready to be produced, unto the person owing or chargeable with the same, a bill or account, in writing, containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable, respectively; in which said bill or account, is and shall be expressed in words at length, and in the same manner, as the fees aforesaid are allowed, by this act, every fee, for which any money or tobacco is or shall be demanded.

Fee-bills to
be produced,

To the Sheriff.

Pounds of Tobacco.

For an arrest, bond, and return,	30	Sheriff's fees.
For returning a <i>capias</i> , <i>non est inventus</i> ,	10	
For serving a <i>scire facias</i> ,	15	
For serving any person with an order of court, and making return thereof,	15	
For pillorying any person,	20	
For putting into the stocks,	10	
For ducking any person,	20	
For putting in prison, and releasement,	20	
For serving a <i>subpœna</i> , in chancery,	15	
For serving a summons upon a petition, for debt, detinue, assumpsit, or trover,	15	
For serving a <i>subpœna</i> , for a witness, in any cause in court, except summoned in court,	10	
For summoning an appraiser, auditor, viewer, or witness, to any deed, will, or writing, if required to be summoned, but not else,	10	
For summoning and impannelling a jury, in e- very cause wherein a jury shall be sworn,	50	
For going to Williamsburg, for a commission of Oyer and Terminer, for every mile, besides ferriages, to be paid by the county, and re-		

paid by the public,	2
The same for returning.	
For coming to, and attending the General Court, with the <i>venire</i> , and return of the <i>venire facias</i> , the same as is allowed to a <i>venire</i> man; to be paid by the public; and for attending the General Court, with stolen goods, where there is no <i>venire</i> , the same.	
For summoning the justices of the county, and attending the Court of Oyer and Terminer, or for the examination of a criminal; to be paid by the county, and repaid by the public.	200
For the removing of every criminal, from the county goal, to the public goal, for every mile; to be paid and repaid as aforesaid,	5
For removing a debtor, by <i>habeas corpus</i> , from the county goal to the public goal, for every mile,	2
For executing every condemned person, and all fees incident; to be paid and repaid as aforesaid,	250
For summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear,	150
And if the jury do not appear,	75
For making a return of a writ of dower, partition, or in the nature of an <i>ad quod damnum</i> ,	50
For every days attendance upon a jury in the country, after they are sworn, or attendance upon a surveyor, when ordered by the court,	50
For serving a writ of <i>habere facias seisinam</i> , or <i>habere facias possessionem</i> ,	50
For serving an attachment upon the body,	30
For serving a declaration in ejectment, if against one tenant,	30
And if against more tenants than one, for serving the declaration on every other tenant,	15
For whipping a servant; to be paid by the owner, and repaid by the servant.	20
For whipping a free person, by order of court; to be paid by such person, the same.	
For whipping a slave, by order of court; to be paid by the county, and repaid by the public,	20
For serving an execution for any debt due in tobacco, five per cent. for the first thousand; two	

per cent. for all above one thousand pounds:
If due in money, five per cent. upon the first
hundred pounds; and two per cent. for all
above one hundred pounds.

For serving an attachment upon the goods ex-
ceeding three pounds, if sold, the same fee as
for serving an execution; where the goods
do not exceed that value, or are not sold, 30

For every garnishee summoned on such attach-
ment, 10

For serving and returning a general court writ,
summons, or order, where the same is not
comprehended in any of the foregoing articles, 30

For making proclamation, as the law directs,
in proving of wills, or proceeding to outlawry, 20

For selling a servant at public outcry, by order
of court, and all fees incident, 20

For keeping and providing for a debtor, in goal,
each day, 10

For keeping and providing for a runaway, or
criminal, in goal, each day; to be paid by the
county, and repaid by the public, 5

For serving a justice's warrant, 10

For summoning a witness before a justice,, 5

For all public services of the sheriff; (to wit,)
attending the courts of claims and grievan-
ces, impannelling grand-juries, publishing of
writs for electing of Burgesses, and atten-
dance; serving all public orders of court,
except against guardians, where they shall
stand out in contempt, to be charged to such
guardian; and all other public and county
service: To be levied annually, by the justi-
ces, on the county; besides cask, 1200

VII. And when any person or persons, presented by On present-
the grand jury, or prosecuted by the church-wardens, ments, &c.
shall be discharged of such presentment, or prosecuti-
on, the sheriff shall charge no fees for the same, but it
shall be deemed to be included in the public services;
but if the party or parties, so presented, or prosecuted,
shall be convict, then, in such case, the sheriff shall
charge him, her, or them, so convict, with all fees ac-
cruing thereon.

*To the Coroner.*Coroners
fees.*Pounds of Tobacco.*

For taking an inquisition on a dead body; to be paid out of the deceased's estate, if the same be sufficient, if not, by the county,	138
For all other business, done by him, the same fees as are allowed the sheriff for the same services.	

*To the Constable.*Constables
fees.

For serving a warrant,	10
For summoning a witness,	5
For summoning a coroner's jury, and witnesses,	50
For putting into the stocks,	10
For whipping a servant; to be paid by the owner, and repaid by the servant,	10
For serving an execution, or attachment, returnable before a justice,	10
For serving an attachment, returnable to the county court, against the estate of a debtor, removing his effects out of the county,	30
For whipping a slave; to be paid by the overseer, if the slave is under an overseer, if not, by the master, one shilling, or	10
For removing any person, suspected to become chargeable to the parish; to be paid by such parish, for every mile,	2
The same for returning.	

*To the Surveyor.*Surveyors
fees.*Pounds of Tobacco.*

For every survey, by him made, plainly bounded, as the law directs; and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed one thousand acres of land,	500
For every hundred acres, contained in one survey, and above the first thousand,	30
For surveying a lot in town,	20
And where the surveyor shall be stopped or hindered, from finishing a survey, by him begun; to be paid by the party who required the survey to be made,	250

For running a dividing line, 250

For surveying an acre of land, for a mill, 100

For every survey of land formerly patented, and which shall be required to be re surveyed, and for a plat thereof, delivered as aforesaid, the same fee as for land not before surveyed: And where a survey shall be made of any lands which are to be added to other lands, in an inclusive patent, the surveyor shall not be paid a second fee, for the land first surveyed, but shall only receive what the survey of the additional lands shall amount to.

And where any surveys have been actually made, of several parcels of land adjoining, and several plats delivered, if the party shall desire one inclusive plat thereof, the surveyor shall make out such plat, for ten shillings.

For running a dividing line between any county or parish; to be paid by such respective counties, or parishes, in proportion to the number of tithables, if ten miles, or under, 1000

And for every mile above ten, 50

VIII. *Provided always, and be it enacted*, That where any person shall employ a surveyor, and shall have received a plat of the lands surveyed, and afterwards shall assign the land to any other, either before or after obtaining a patent for the same; if such person, for whom the land was first surveyed, shall not have paid for the said survey, it shall and may be lawful, for the sheriff of the county wherein such assignee shall reside, at the instance of such surveyor, to make distress upon the slaves, goods and chattels, of such assignee, in like manner as is herein after provided, for surveyors, or other officers fees, refused or delayed to be paid. On assignments of plats &c.

IX. *And be it further enacted*, That the clerk of the secretary's office shall cause to be set up, in some public place in that office, and there constantly kept, a fair table of the secretary's fees herein before mentioned, on pain of forfeiting two thousand pounds of tobacco, for every General Court day the said table shall be missing, thro' his neglect; and that the clerk of every county court, shall, in like manner, set up a fair table of all the other fees herein before mentioned, in the court-house of his county, to be there constantly Table of fees to be set up.

kept, on pain of forfeiting one thousand pounds of tobacco, for every court day the same shall be missing, thro' his neglect: Both which penalties shall be to the person or persons who shall inform or sue for the same; and shall or may be recovered in any court of record within this dominion, by action of debt, or information.

Penalty for
over charging.

X. And that if any officer whatsoever hath heretofore taken any greater fee than was by the laws then in force allowed, or hereafter shall claim, charge, demand, exact, or take, any more or greater fees, for any writing, or other business by him done, within the purview of this act, than herein before set down and ascertained; or if any officer shall charge, or demand, and take, any of the fees herein before mentioned, where the business, for which such fees are chargeable, shall not have been actually done and performed; to be proved by the fee book of such officer, upon his corporal oath; such officer, for every such offence, shall forfeit and pay, to the party injured, besides such fee or fees, two hundred pounds of tobacco, for every particular article or fee, so unjustly charged, or demanded, or taken: To be recovered, with costs, in any court of record within this dominion, by action of debt or information: provided the same be sued for, within twelve months after the offence shall be committed

Proviso-

XI. *Provided always*, That nothing herein contained, shall be construed, to inflict any penalty, on any of the said officers, for demanding and taking the fees, respectively allowed to be taken by them, by one act of Assembly, made in the twelfth year of his present majesty's reign, intituled, An act for the better regulating and collecting certain officers fees; and other purposes therein mentioned, at any time before the publication of this act; for which two months, after the commencement thereof, is hereby allowed.

Accounts of
fees to be de-
livered to
the Sheriff.

XII. And for the better collecting the said tobacco fees, *Be it further enacted*, That the clerk of the secretary's office, and of every county court respectively, and every surveyor, shall, annually, before the twentieth day of January, deliver, or cause to be delivered, to the sheriff of every county in this colony, respectively, their accounts of fees due from any person or persons residing therein, having first made the

proper deductions at the foot of every such account; which shall be signed by the clerks, or surveyors, respectively. And the said sheriff is hereby required and impowered, to receive such accounts, and to collect, levy, and receive, the several quantities of tobacco therein charged, of the persons chargeable therewith. And if such person or persons, after the said fees shall be so demanded, shall refuse or delay to pay the same, 'till after the tenth day of April, in any year, the sheriff of that county wherein such person inhabits, or of the county in which such fees became due, shall have full power, and is hereby required, to make distress of the slaves, or goods, and chattels, of the party so refusing or delaying payment, either in that county where such person inhabits, or where the said fees became due. And the sheriff of any county, for all fees which shall remain due and unpaid, after the said tenth day of April, in any year, either to himself, or the sheriff of another county, which shall be put into his hands, to collect as aforesaid, is hereby authorised and impowered, to make distress and sale, of goods, and chattels, of the party refusing or delaying payment, in the same manner as for other fees due to any of the officers herein before mentioned: But no action, suit, petition, or warrant from a justice, shall be had or maintained for secretary's, county court clerks, or surveyors fees, unless the sheriff shall return, that the person owing or chargeable with such fees, hath not sufficient within his bailiwick, whereon to make distress; except where the clerk, or other officer, as aforesaid, shall have lost his fee book by fire, or other misfortune, so that he be hindered from putting his fees into the sheriff's hands to collect; and in that case, any suit or warrant may be had and maintained for the recovery thereof: And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

His duty is
collecting
them.

XII. That the sheriff of every county shall, upon or before the last day of May, in every year, account with the secretary, or his agent, and the clerk of the respective county courts, and the respective surveyors, for all fees put into his hands, pursuant to this act, and pay the same, abating six per cent. for collecting: And the secretary is hereby required to appoint an

Sheriff when
to account.

Remedy against him, in case of refusal.

agent in every county, to receive the sheriff's accounts and all tobacco due to him. And if any sheriff shall refuse to account or pay the whole account of fees put into his hands, after the deductions aforesaid are made, together with an allowance of what is charged to persons not dwelling, or having no visible estate in his county, it shall and may be lawful for the secretary, or clerk, or surveyor, upon a motion made in the next succeeding General Court, or in the court of the county of such sheriff, to demand judgment against such sheriff, for all fees wherewith he shall be chargeable, by virtue of this act; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion.

Clerk's office to be inspected annually.

XIII. And whereas several of the county court clerks in this colony, have neglected to record deeds, wills, and other matters of consequence, *Be it enacted*, That the justices of the several county courts shall annually, appoint two or more fit persons, of their number, to inspect the clerk's office of their county, and to report to the next court, the condition in which they find the papers and records.

Attorney's fee to be taxed.

XIV. *And be it further enacted*, That the respective county courts, in every cause, except where the same shall be brought by petition, where the plaintiff shall recover or be nonsuit, or where his suit shall be dismissed, shall allow, in the bill of costs, fifteen shillings, or one hundred and fifty pounds of tobacco, for an attorney's fee, if the party employed one; except against executors and administrators, or where the plaintiff may not recover more costs than damages.

Former acts repealed.

XV. *And be it further enacted*, That the act made in the twelfth year of his present majesty's reign, intituled, An act, for the better regulating and collecting certain officers fees; and other purposes therein mentioned; and one other act, made in the eighteenth year of his said majesty's reign, for continuing the same; be, and are hereby repealed, and made void: And that this act shall continue and be in force, from the end of this session of Assembly, for and during the term of three years, and no longer.

This act in force for three years.

CHAP. VII.

An Act, to regulate attornies practising in the county courts; and the granting writs of Certiorari.

I. **W**HEREAS the great number of ignorant and Preamble.
unskilful attornies practising in the county courts of this colony, is become a grievance to the country, in respect of their neglect and mismanagement of their clients causes: For preventing of which for the future;

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same, That* Examiners
to be appointed, by the General court.
from and after the first day of May, the judges of the General Court, for the time being, shall, and they are hereby impowered and required, to nominate and appoint, from time to time, such and so many of the council, learned in the law, and attornies, practising in the said court, as they shall think fit, to examine into the capacity, ability, and fitness of such persons as shall from time to time, apply for a license to practise as attornies, in the county courts, or other inferior courts of this colony; and shall cause such nomination and appointment to be entered in the records of their court: Which persons so nominated and appointed, shall, at the time of their nomination, make And there sworn.
oath, before the General Court, that they will well and truly examine into the capacity, ability, and fitness of all such persons as shall make application to them for a license to practise as attornies: and that they will not grant a license to any person who shall not, upon examination, to the best of their knowledge, be found sufficiently qualified to practise as an attorney, as aforesaid.

III. *And be it further enacted, That every person* Method of
desiring a license to practise as an attorney, as aforesaid, shall, before he be examined, produce to the examiners or examiner, a certificate, from some county an attorney.
court, or other inferior court, wherein he had before practised, or then intends to practise, of his probity, honesty, and good demeanor; and shall also pay down to such examiners or examiner, the sum of twenty shillings; after which, it shall and may be lawful for such examiners or examiner, and they are hereby

impowered and required to proceed to make such examination and to grant such license, as aforesaid, under his or their hands and seals, or to refuse such license to the person so examined, according as he shall appear fit and qualified, or not, upon such examination.

Penalty on
examiners.

And if the persons appointed by the General Court, as aforesaid, shall refuse to be sworn, as aforesaid: or being sworn, shall grant any license for the office of an attorney, to any person applying to them, without producing such certificate, as herein before directed; or shall accept of or receive any greater fee or reward for the same, than before mentioned, they shall respectively, for every such offence, forfeit and pay one hundred pounds; one moiety thereof to our sovereign lord the king, his heirs and successors, for and towards the better support of this government, and the contingent charges thereof; and the other moiety to him or them that will inform or sue for the same: To be recovered, with costs, by action of debt, or information, in any court of record within this colony: And every person obtaining a license, as aforesaid, before he shall be admitted to practise as an attorney in any county court, or other inferior court, shall, before every such court, take the oaths appointed by law to be taken, instead of the oaths of allegiance and supremacy, and take and subscribe the oath of abjuration, and subscribe the test; and shall also take the oath of an attorney, as follows: (to wit,)

Attornies to
be sworn.

Their oath.

I A. B. do swear, that I will truly and honestly demean myself, in the practice of an attorney, according to the best of my knowledge and ability.

So help me God.

Penalty for
practising
without a li-
cense, or
without
qualifying.

And if any person whatsoever, after the first day of July next, shall presume to practise as an attorney, in any such county court, or other inferior court, without a license first obtained, or without qualifying himself in such court, in the manner in this act before mentioned, he shall, for every such offence, forfeit and pay the sum of five pounds for every cause he shall prosecute or defend in any of the said courts; one moiety to his majesty, his heirs and successors, for defraying the contingent charges of this government; and the other moiety to the informer: To be recovered by action of debt, or information, in any court of record in this colony.

IV. *And be it further enacted, by the authority afore-* Attornies
said, That if any attorney shall misdemean himself, and act contrary to his duty in his practice, the judges of the General Court, upon complaint and proof thereof made before them, may, by their order, supersede such attorney's license, suspend him for a time, or disable him for ever, from practising as an attorney, as they shall think just order.

V. *Provided always, and it is hereby enacted and declared,* That this act, or any thing therein contained, so far only as relates to obtaining license, shall not be construed to extend to any barrister at law, or any attorney now practising in the General Court, or to any attorney who hath heretofore been examined, and obtained a license to practise the law, in pursuance of the act of Assembly, made in the fifth and sixth years of the reign of his present majesty, intituled, An act, to prevent frivolous and vexatious suits; and to regulate attornies practising in the county courts, who have, ever since such license obtained, continued the practice of an attorney in the county courts, or other inferior courts, and shall be practisers there, on the said first day of July. Act as to obtaining licenses, not to extend to barristers at law, or certain attornies.

VI. *Provided also,* That such barristers and attornies shall, after the said first day of July, take such oaths to the government, subscribe the oath of abjuration, and the test, and take the oath of an attorney, as is herein before directed, before they be permitted to practise in any county court, or other inferior court, in this colony, upon pain of forfeiting the like penalty as is inflicted by this act, for practising in such courts without a license; to be recovered and divided in the same manner: Any thing herein contained to the contrary, notwithstanding. But they are to take the oaths, &c. under a like penalty.

VII. *Provided also,* That every person practising as an attorney in the county courts, or other inferior courts, on the said first day of July next, shall be at liberty to finish the causes then depending in such courts, in which he was before employed, without incurring the penalties inflicted by this act on persons practising as attornies, without a license first obtained, altho' such person shall not obtain such license. Persons not obtaining a license, may finish their causes.

VIII. *Provided also,* That nothing in this act contained, shall be construed to hinder the justices of any county court, or other inferior court, from causing a- Attornies may be punished for

contempts
in the inferi-
or courts.

ny attorney practising in such courts, to find security for their good behaviour, or fining such attorneys for misdemeanors, or contempts against them, in the same manner as if this act had never been made.

And shall
pay all costs
occasioned
by their ne-
glect.

IX. *And be it further enacted*, That if any attorney in any county court, or other inferior court, shall, wittingly or willingly, be guilty of any neglect in any cause, the court before whom such cause shall be depending, upon complaint and proof thereof made, within six months after such neglect, shall have power and authority to order such attorney to pay all costs occasioned by such neglect.

Filing decla-
rations.

X. *And be it further enacted, by the authority aforesaid*, That for the future, the plaintiff or demandant in any suit, shall not be nonsuit for not filing his declaration one day before the court, provided he doth it at the first calling of the cause in court; and that the county court clerks shall not be obliged to draw the declaration in any suit depending in court, nor shall any *incipitur* be filed or received for or in lieu of a declaration in such suit.

Method of
obtaining
writs of cer-
tiorari, when
the General
Court is sit-
ting.

XI. And for settling a method of obtaining writs of *certiorari*, to remove civil causes from the county courts, or other inferior courts, into the general court of this colony, when the general court is not sitting; *Be it further enacted, by the authority aforesaid*, that the party desiring such writ or writs, when the general court is not sitting, shall by petition to the governor or commander in chief of this colony for the time being, and the rest of the judges of the general court, set forth the reasons of his desiring such writ or writs, and shall make oath, before a magistrate, to the truth of the allegations of his petition; and then the governor or commander in chief of this colony for the time being, together with any two of the judges of the general court, may, from under their hands, order and award such writ or writs to the party praying the same, or may refuse such writ or writs to him, according as the matter shall appear just and necessary, or not, to them; and the clerk of the secretary's office shall carefully file such petition and affidavit in the office, and shall also take bond from the party praying such writ or writs, with one or more sufficient security or securities, in such penalty as shall be directed by the governor and judges who shall order and award such

writ or writs, for satisfying and paying all such sum and sums of money and tobacco, and costs, as shall be adjudged to the adverse party, in the cause or causes so to be removed; and thereupon such clerk shall and may issue the writ or writs, as aforesaid, but not otherwise.

XII. *And be it further enacted, by the authority aforesaid,* That if any person, making oath to the truth of the allegations of his petition, as aforesaid, shall take a false oath, and be thereof convicted, he shall be adjudged guilty of perjury, and suffer as a person convicted of wilful and corrupt perjury.

Penalty on taking a false oath.

XIII. *Provided always,* That the prosecution for such offence, be commenced within twelve months after the offence committed.

Prosecution to be within 12 months.

XIV. *And be it further enacted, by the authority aforesaid,* That no writ or writs of *certiorari* whatsoever, shall be granted, to remove any cause or causes from a county court, or other inferior court, into the general court, where the matter in dispute shall not be originally cognizable in the general court; nor shall any writ or writs of *certiorari* be received or allowed by the justices of any county court, or other inferior court, or to whom any such writ or writs shall be directed and delivered, after issue or demurrer joined, in the cause or causes depending in such courts, and intended to be removed by such writ or writs; but they shall and may proceed in the said cause or causes, as tho' no such writ or writs were sued forth or delivered to them, or any of them; And if any cause or causes be removed or stayed by any such writ or writs, and afterwards the same cause or causes shall be remanded or sent back again by any writ or writs of *procedendo*, or other writ whatsoever, that then the said cause or causes shall never afterwards be removed or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from the general court, or secretary's office.

No writ of *certiorari* to be granted to remove a cause notoriously cognizable in the General court, or to be obeyed after issue or demurrer joined.

Suit once remanded, shall never afterwards be removed or staid before judgment.

XV. And to prevent the obtaining any writ of *certiorari* by surprise, *Be it further enacted, by the authority aforesaid,* That in all civil causes, the party praying the said writ of *certiorari*, shall give notice to the adverse party, of the time of his moving or petitioning for such writ, at least ten days before such motion or

Notice of praying a writ of *certiorari*, to be given, and affidavit thereof produced.

petition; and no such writ shall at any time be granted, without producing an affidavit of such notice.

Continuance
of the act.

XVI. *And be it further enacted, by the authority aforesaid, That this act shall remain and be in force three years, from the passing thereof, and from thence to the end of the next session of Assembly.*

CHAP. VIII.

An Act, for continuing and amending an Act, intituled, an Act, for inspecting, weighing, and stamping all pork and beef, packed in this colony, or imported for sale, before the same shall be sold here, or shipped for exportation: And to amend the Act, intituled, an Act, for ascertaining the gauge of barrels for pork, beef, tar, and pitch; and for inspecting, weighing, and stamping all flour exported.

Preamble.

I WHEREAS the act of Assembly, made in the fifteenth year of the reign of his present majesty, intituled, an act, for inspecting, weighing, and stamping all pork and beef, packed in this colony, or imported for sale, before the same shall be sold here, or shipped for exportation: And to amend the act, intituled, an act, for ascertaining the gauge of barrels for pork, beef, tar and pitch, will expire at the end of this session of Assembly; and the same having been found useful and beneficial;

Inspectors of
pork, beef,
tar, pitch,
and turpen-
tine, to be
appointed by
the county
courts in the
month of Au-
gust, or Sep-
annually.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That hereafter no pork or beef shall be exported out of this colony, or tar, pitch. or turpentine, exposed to sale, or exported, until the same shall be packed or filled in barrels, under the regulations herein expressed: And the justices of every county court within this dominion, shall be impowered, and they are hereby authorised and required, in the month of August, or September. annually, to nominate and appoint, in open court, one or more (not exceeding six in one county,) fit and able person or persons, residing in the same county, to inspect the package. and weigh all pork and beef, and also the filling of all tar, pitch,*

or turpentine, packed or filled for sale or exportation, within their respective counties.

III. *And be it further enacted*, That every barrel of pork or beef, packed within this colony, for sale or exportation, or imported here, shall contain, at least, two hundred and twenty pounds nett, of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, and no more than two heads of pork in one barrel; and after the same has been inspected, weighed, found merchantable, and passed, by the inspector or inspectors residing in the county where the said pork or beef is packed, every barrel shall be by him or them stamped, or branded, distinguishing upon the head of every pork barrel, whether it is large or small pork; and certificate of all barrels so passed or stamped, shall be, by the inspector or inspectors, given to the owner: And every barrel of tar, pitch, or turpentine, shall contain thirty one gallons and a half, wine measure, at the least; and after the same shall be inspected, gauged, found clean, well and truly made, merchantable, and passed, by the inspector or inspectors, in the county where the same shall be inspected, every barrel of tar, pitch, or turpentine, shall be, by him or them, stamped, or branded, and a certificate thereof given to the owner, as aforesaid.

Contents of each barrel of pork or beef, barrel to be stamped, and certificate given to the owner

Contents of each barrel of tar, pitch, or turpentine. Barrel to be stamped, and certificate given the owner.

IV. *And be it further enacted*, That every person appointed, as aforesaid, to inspect pork, beef, tar, pitch, and turpentine, shall, before he enters upon the execution of that office, make oath, before the court of his county, carefully to view, inspect, and examine, when required, all pork, beef, tar, pitch, and turpentine, packed or filled for sale or exportation, and to the best of his skill and judgment, not to pass or stamp any barrel of pork, beef, tar, pitch or turpentine, that is not good, clean, sound, merchantable, and of one weight or gauge, according to the directions of this act, and faithfully to discharge the duty of his office, without favour, affection, partiality, or other by respect; and shall constantly attend upon notice, at such time and place, as the owner of the pork, beef, tar, pitch, or turpentine, to be inspected, shall appoint, to inspect the same within his county; and shall provide a stamp, or stamps, with the first letter of his county, the letter V for Virginia, the first letter of his own christian name, and his whole sur-name at length, to be stamped on each

Inspectors to be sworn.

To attend, upon notice, and to provide a stamp.

Their fees. barrel by him passed; for which he may demand and take six pence for every barrel of pork and beef, and two pence for every barrel of tar, pitch, and turpentine, by him inspected, and no more, to be paid by the owner, before certificate given: And if any officer, so appointed and sworn, shall neglect his duty, or shall stamp any barrel of pork, beef, tar, pitch, or turpentine, not well packed, clean made, and filled, and of due weight, or gauge, as this act requires, he shall forfeit and pay five shillings for every offence, to the informer, recoverable before any justice of the peace.

Penalty for neglect of duty, and how recoverable. *V. And be it further enacted,* That every county court within this colony, shall also, at the time, and in the manner herein before directed, appoint one or more fit person or persons, to inspect and weigh all wheat flour made within their respective counties, and intended for exportation; and that the person making, or causing such flour to be made, shall first make oath, before a justice of the peace, that the flour by him intended to be exported, or sold for exportation, is clean and pure, not mixed with meal of Indian corn, pease, or any other grain or pulse, to the best of his knowledge, and shall produce certificate of such oath made, to the inspector, who thereupon shall diligently view and examine such flour; and if by him found clean, pure, and unmixed, shall see the same packed in casks or barrels, well secured, for exportation, and stamped in the manner herein before directed, and with the gross, tare, and nett weight of every cask or barrel, and shall also distinguish the fineness, by the words first, or second, stamped on the head; for which he may demand and take six pence, for every barrel containing two hundred and twenty pounds nett, or less, and for every cask of greater weight, eight pence, by him inspected, and no more, to be paid down by the owner: And if any inspector shall neglect his duty, or stamp any flour contrary to this act, he shall forfeit and pay five shillings for every offence to the informer, recoverable before a justice of the peace.

Inspectors of flour to be appointed. *VI. And be it further enacted,* That the respective county courts may appoint the same person or persons inspectors of pork, beef, tar, pitch, turpentine, and flour. if such person appears to them duly qualified; or may appoint several inspectors, as in their discretion shall seem best.

Exporters to be sworn, &c.

Duty of the inspector.

His fees.

Penalty for neglect of duty.

Same person may be inspector of pork, &c. & flour.

VII. *And be it further enacted,* That every master of a vessel, wherein pork, beef, tar, pitch, turpentine, or flour, shall be exported, shall make oath, that he will not knowingly take, or suffer to be taken on board his ship or vessel, any pork, beef, tar, pitch, turpentine, or flour, not stamped according to this act; which oath the respective naval officers of this colony are hereby impowered and required to administer: And if any pork, beef, tar, pitch, and turpentine, packed or filled in barrels for exportation, not stamped as by this act is directed; or any parcels of pork or beef, not packed in barrels; or any flour in barrels or casks, except for necessary provisions, shall be put on board any ship or vessel, to be exported, every such barrel or parcel may be seised by any sworn officer, and brought on shore, and shall be forfeited to the informer, recoverable before a justice of the peace; and the officer making such seisure, may demand and take the same fees as for serving an execution, to be paid by the party for whom the seisure was made: And if any officer shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence; and upon non-suit, or verdict for the defendant, he shall have double costs; and the master of any ship or vessel, shall forfeit and pay twenty shillings for every barrel or cask of pork, beef, or flour, and five shillings for every barrel of tar, pitch or turpentine, so taken on board; recoverable before a justice of the peace in any county in this colony, if the sum does not exceed five pounds; and if it is more, to be recovered by action of debt, or information, in any court of record of this dominion.

Master of the vessel exporting pork, &c. to be sworn. Pork, &c. shipped without stamping liable to be seised and forfeited.

Officer sued, may plead the general issue, & shall recover double costs. Penalty on the master of the vessel, & how recoverable.

VIII. *And be it further enacted,* That all pork and beef, exposed to sale or barter within this colony in barrels, whether the same be packed here, or imported from Carolina, or any other place, shall contain, at least, two hundred and twenty pounds nett meat, allowing only two and a half per cent. for shrinkage or loss of weight; and every barrel of tar, pitch or turpentine, exposed to sale or barter, whether the same shall be made here, or imported from any other place, shall contain, at least, thirty one gallons and a half, wine measure, and stamped, as this act directs. And if any person shall sell, or expose to sale, any barrel

Contents of the barrels of pork, beef, tar, &c. sold here, ascertained.

Penalty on the seller,

and how to
be recover-
ed.

of pork, beef, tar, pitch, or turpentine, of less weight or gauge, he shall forfeit and pay, to the informer, twenty four shillings current money, for every barrel of pork or beef, and five shillings for every barrel of tar, pitch, and turpentine, so sold, or exposed to sale; recoverable before a justice of the county where such offence shall be committed, altho' the penalty shall exceed twenty shillings Sterling; and every justice of the peace, upon such complaint, and due proof thereof before him made, shall and may, by virtue of this act, enter up judgment for the whole penalty, and award execution thereupon: Any law to the contrary, notwithstanding.

Appeal al-
lowed to the
county court
on giving se-
curity.

IX. *Provided nevertheless*, That from such judgment for more than twenty shillings Sterling, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant giving bond, with sufficient security, before the justice entering up such judgment, that he will prosecute his appeal with effect, and pay all costs and damages awarded by the court, if the judgment be affirmed; and the justice of peace taking such bond shall return the same, together with the whole record of his proceedings, upon the complaint before him made, to the same court to which such appeal shall be, and such court shall and may receive, hear, and finally determine the same.

Seller or ex-
porter to be
sworn.

X. *And be it further enacted*, That every seller or exporter of pork, beef, tar, pitch, or turpentine, packed or filled in this colony, and stamped, shall make oath, before a justice of the peace, within three days before delivery of the goods sold or exported, that the several barrels of beef, pork, tar, pitch, or turpentine, by him intended so to be sold or exported, are the same that were inspected and stamped, and do contain the full quantity, without embezzlement, to his knowledge.

Make and
size of the
barrels ascer-
tained.

XI. *And be it further enacted*, That every cooper, and every master or owner of a servant or slave, setting up barrels for pork, beef, tar, pitch, or turpentine, shall make the same with good, strong, well seasoned timber, tight, and well hooped, with twelve hoops at the least; and every barrel for pork or beef, to contain, from twenty nine to thirty one gallons each: and every barrel for tar, pitch, or turpentine, to contain

thirty one gallons and a half, at the least, with his name, or the name of the master of such servant or slave, at length, stamped or branded upon every barrel, under the penalty of two shillings and six pence to the informer; recoverable before a justice of the peace.

XII. *And be it further enacted*, That this act shall continue and be in force, from and after the passing thereof, for and during the term of two years, and from thence to the end of the next session of Assembly; and that so much of the said recited act, and the act made in the fourth year of the reign of queen Anne, intituled, An act, for ascertaining the gauge of barrels, for pork, beef, tar, and pitch, as relates to any matter or thing, within the purview of this act, shall be, and is hereby repealed and made void.

Continuance of the act.
So much of the act of the 4th of Anne as is contrary to this, repealed.

CHAP. IX.

An Act, to explain and amend an act, intituled, An act, for licensing Pedlars; and preventing frauds in the duties upon Skins and Furrs.

I. **W**HEREAS the method of licensing pedlars, directed by an act of Assembly, made in the twelfth year of his present majesty's reign, intituled, an act, for licensing pedlars; and preventing frauds in the duties upon skins and furrs, hath been found inconvenient:

Preamble.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, That from and after the first day of May next, no pedlar, or other person, whether he be an inhabitant of this colony or not, shall go from place to place, or to other mens houses, and sell or expose to sale, or barter any goods or merchandizes whatsoever, for skins and furrs, without license first obtained, under the hand and seal of a collector of the duties upon skins and furrs, exported by land, residing near the frontiers; and if any pedlar shall refuse to produce such license, when required by any person, to, or before whom he shall sell, or expose to sale or barter, any goods or merchandize, the same may be seized

Pedlars to be licensed, & by whom.
Refusing to produce their license when required.

ed, forfeit
their goods.

by the party or parties requiring such license to be produced, and upon due proof thereof made, before a justice of peace: the goods so seised shall be forfeited and delivered to the seisor, for his own use.

The manner
of obtaining
licenses;

III. *And be it further enacted*, That every collector of the duties upon skins and furs, exported by land, appointed or to be appointed, by virtue of the said recited act of Assembly, shall be, and is hereby authorised and impowered, from time to time, to grant or refuse at his discretion, to any person or persons applying for the same, license or licenses to trade, during the term of one year from thence next following, and no longer; the party obtaining such license, first entering into bond, with good and sufficient security, to our sovereign lord the king, his heirs and successors, in the penalty of twenty pounds, with condition, that he will not export, or cause to be exported, with his privity or knowledge, any skins or furs, either by land or water, without first paying the duties imposed on such skins and furs, by one act of Assembly, made in the fourth year of the reign of the late queen Anne; and shall also make oath, and swear to the same effect, and pay down the sum of ten shillings, for the use of the governor, or commander in chief of this colony, for the time being; and the further sum of five shillings to the collector granting such license, for writing the same and the bond aforesaid, which bond shall be by him safely kept; and in case of breach, shall and may be recovered and applied as by the said first recited act is directed: And the clerk of every county court, shall, in the months of April and October, yearly, transmit to the secretary's office, a list of all recoveries or judgments, had or given, on seizures, or for breach of such bonds, if any shall happen to be.

the fees of
the same.

Lists of reco-
veries on
seisures or
bonds to be
transmitted.

Collector ex-
porting
skins, &c. to
make oath
and obtain a
certificate.

IV. *And be it further enacted*, That every collector of the duties upon skins and furs, now appointed, or hereafter legally to be appointed, who shall, at any time, himself, export skins or furs, liable to a duty, by land or water, shall first make oath, before a justice of peace, to the true number and kind of skins or furs, and the weight of beaver, by him intended to be exported, and to what port or place, and obtain a certificate of such oath by him made, and shall return such certificate and account for the duties, in the same

manner, and at the same time or times, as he shall account for duties by him collected from other persons, under penalty of forfeiting double the value of the skins or furs exported, without such oath made, and duty accounted for and paid; to be recovered in the same manner, and applied to the same uses as recoveries upon breach of bond are by the said first recited act directed to be: And every collector of the said duties shall, at the time of accounting for the same, with the person or persons by his commission directed, return true lists of all licenses by him granted, and bonds thereupon taken, from time to time.

Certificates to be returned, and duties accounted for, under a penalty.

Lists of licenses and bonds to be transmitted.

V. *And be it further enacted*, That every pedlar, or other person, found travelling and trading without such license as aforesaid, or who shall refuse to produce and shew his license, upon demand made by any inhabitant of this colony, or who shall be found travelling towards any other of his majesty's plantations, with skins or furs, beyond the place where the collector usually resides, and upon demand made, by any inhabitant of this colony, shall refuse to produce and shew a certificate, that the duties have been paid, every person offending, in any of the premises, shall be liable to the respective penalties, forfeitures, and punishments, by the said first recited act laid, given, or inflicted; to be recovered and disposed of, as by the said act is directed.

Penalty on pedlars without license, or refusing to produce it, or a certificate of the payment of the duties when demanded.

VI. *Provided always*, That all licenses, granted by any county court, before the said first day of May, shall be good and valid, until expiration of the term in such licenses respectively limited.

Former licenses to be valid.

CHAP. X.

An Act, for giving a farther premium, for raising and exporting Hemp.

I. **W**HEREAS by an act of Assembly, made in the eighth year of the reign of his late majesty king George the first, intituled, An act, for the making of tar and hemp, and also by one other act, made in the third and fourth years of the reign of his present majesty, intituled, An act, for empowering justici-

Recital.

ces of the peace, and constables, to weigh hemp, in order to entitle the maker to receive the bounty; and for paying to William Byrd, esq. five pounds four shillings, due to him, for the bounty upon hemp; it was, among other things enacted, That the sum of four thousand pounds, current money of this colony, be appropriated and paid, to such person or persons who should make, or cause to be made hemp, water-rotted, bright and clean, within this colony, as a reward or premium to such makers or owners thereof; to be paid unto them, at and after the rate of four shillings, of like money, for every hundred weight of hemp so made, upon producing a certificate, and obtaining a warrant from the governor for the same, as by the said recited acts are directed.

Preamble.

II. And whereas, by experience, the said reward or premium hath not proved a sufficient encouragement to induce the inhabitants of this colony to make any quantity of hemp, for exportation, as appears by the small sums hitherto paid for the said reward or premium: And this present General Assembly being of opinion, that if the same be further encouraged, it may be effected, and prove not only useful to his majesty's navy, and the British navigation in general, but also be the means of increasing and maintaining a great number of his majesty's subjects, in the frontier and remote settlements of this colony, whereby the said colony will also be better defended, against the insults of the Indians of his majesty's enemies.

Additional
premium of
2 s a hun-
dred allowed
on hemp,

III. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That out of the residue of the said four thousand pounds, appropriated as aforesaid, an additional reward or premium shall hereafter be paid, of two shillings current money, for every hundred weight of hemp made, and for which a certificate shall be obtained, as by the former acts is directed.*

and how to
be obtained.

IV. *Provided, every person or persons, claiming the reward or premium, by virtue of this or the former acts, before he, she, or they, shall be entitled to receive the same, or any part thereof, shall first export the same out of this colony, in some ship or vessel bound directly to Great Britain: and shall also produce, to the naval officer of the district where the*

same was entered for exportation, a certificate, or certificates, under the hand of the clerk of the court in the county wherein the same was made, in manner and form as by the said two recited acts is directed; and shall then make oath, that the hemp so exported is, to the best of his, her, or their knowledge and belief, the same that is mentioned in such certificate, or certificates: And the said naval officer is hereby required to administer such oath, and to certify the same to the governor, or commander in chief of this colony for the time being; who, upon the parties producing of such certificate, from the naval officer aforesaid, is hereby empowered and desired, to issue his warrant to the treasurer of this colony, for the payment of such sum or sums as shall appear to be due by virtue of this act.

CHAP. XI.

An Act, for amending an act, intituled, An act, for encouragement of building Water-Mills.

I. **W**HEREAS the method by an act of Assembly, Preamble, made in the fourth year of the reign of the late queen Anne, intituled, An act, for encouragement of building water-mills, directed to be taken by persons willing to build any water mill, and having land only on one side of the run whereon such mill is intended to be built, hath been found inconvenient:

II. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That* from and after passing this act, any person or persons willing to build a water-mill, on some convenient run, and having land only on one side thereof, shall petition the court of that county wherein the land on the other side such run shall lie, for one acre to be laid off, which court is hereby authorised and required, upon such petition, at the costs and charges of the petitioner, to issue their order to the sheriff, commanding him to summon a jury of twelve freeholders of the vicinage, to meet upon the land petitioned for; who being met and duly sworn before a magistrate, or the sheriff, shall diligently view and examine the said land, Persons intending to build a water mill, & having land only on one side of the run, how to proceed to get an acre on the other side,

and the lands adjacent thereto, on both sides the run, in the same or the next county, which may be affected or laid under water by building such mill, together with the timber and other conveniences thereon, and shall report the same, with the true value of the acre petitioned for, and of the damages to the party, or any other person or persons, under their hands and seals, to the court whence such summons issued, to be returned by the sheriff; and if thereupon it appears reasonable to such court, and if it take not away houses, orchards, or other immediate conveniences, then they may and are hereby authorised and impowered, to grant such acre to the petitioner, and order the return thereupon made, to be recorded; which shall be a good and effectual seisin in law, to the petitioner, paying down the valuation money of the land, and damages, reported by the jury, to the party or parties legally intituled thereto, and shall create a fee simple in the said acre of land, to the petitioner, his, her, or their heirs; but subject nevertheless to the provisos, conditions, and limitations, of the said recited act of Assembly.

Owner of
land on both
sides the run
not to erect
a mill with-
out leave
from the
county court.

III. *And be it further enacted*, That no person or persons whatsoever, after passing this act, shall erect any mill, notwithstanding he or she has land on both sides a creek or run, and although there be no other mill standing thereon, without petition first exhibited to the county court, who are to consider whether the adjacent lands of other persons will be affected thereby; and in that case to order a jury to value the damages, and make report thereof in manner herein before directed, and thereupon to grant or reject such petition; but where the petitioner's land extends so far on both sides as not to affect or overflow the land of any other person, the court may, if they see cause, grant leave to the petitioner for erecting such mill, without ordering any jury. And if any person shall hereafter presume to build any mill without such leave first had, he or she shall be liable to the action of the party grieved, for his or her damages.

Not to ex-
tend to mills
heretofore
built, nor to

IV. *Provided always*. That this act shall not extend to mills heretofore built, tho' not now standing, nor to mills now begun, tho' not yet finished, but that the owners thereof shall be, and continue possessed of

the same, under their respective legal titles, as if this act had never been made; subject nevertheless to the provisos, conditions, and limitations, of the said recited act. mills begun, though not finished

V. *Provided also*, That where any mill has been built, and is now standing, and the owner thereof, thro' ignorance or mistake, hath not exactly pursued the method in the said act prescribed, the court of the county wherein the acre of land lies, shall upon petition of such owner, order and appoint two of their members to value the acre of land petitioned for, without having regard to any of the adjacent lands affected by such mill, and upon the petitioner's paying down the valuation money, to the party intituled thereto, he shall have a fee simple estate in the said acre of land; subject nevertheless to the provisos, conditions, and limitations, of the said recited act. Proviso, for owners of old mills who have not exactly pursued the law.

VI. And whereas some persons may have built water mills on a point of land of their own, in the fork of a swamp, between two runs, and extended their dams each way across both runs to lands in which they had only an estate tail, and sold the same, with an acre at each end of the said dams; and tho' by the before recited act, the courts might create a fee simple, by the method there directed, in an acre of such land, to any builder of a water-mill, having land of his own opposite thereto, and tho' each of the acres aforesaid are really opposite to the land of such builders, yet it has been doubted, whether the court upon application could confirm the purchaser in a fee simple in each of the said acres. And whereas the said case is within the equitable intent and construction of the said recited act, for encouragement of building water-mills. Preamble.

VII. *Be it therefore enacted*, That in such cases the court of the county where the said acres lie, shall, and they are hereby required, on the petition of the purchaser, to enquire into the facts; and if it appear to them, that the purchaser hath paid a valuable consideration for the said acres, they shall record the title of the purchaser confirmed in fee simple thereto; or if a sufficient consideration is not in their opinion already paid, they shall, at the costs and charges of the petitioner, issue their order to the sheriff, to summon a jury, as is before directed; who being duly qualified, Where mill-dams extend to entailed lands, and the owner has purchased an acre at each end, his title shall be confirmed, and how.

Where mills shall be destroyed the proprietor allowed the same time to rebuild as for the first building. Bounds of the adjacent acres to be ascertained.

shall view, value, and report, under their hands and seals, how much more the petitioner ought to pay; and the court shall record the report aforesaid; and that the petitioner's title to the said acre, at each end of the dam, is confirmed to him in fee simple, on his paying down to the party or parties intituled thereto, the sum so reported, if any be found due; which proceeding shall be a good and effectual seisin in law to the petitioner, and shall create a fee simple in the said two acres, to such person as he, his, her, and their heirs, forever; subject nevertheless to the provisos, conditions, and limitations, in the before recited act of Assembly; with this explanation, that if at any time, any mill heretofore built, or that shall hereafter be built, in pursuance of this or the before recited act, shall happen to be burnt, carried away by the water, or any way destroyed, the proprietor being under none of the disabilities there provided for, shall have the same time allowed, to rebuild and repair such mill, as is there allowed for the first building thereof: And if the bounds of the said two acres are not ascertained in the deed of purchase, the jury appointed to value as aforesaid, or any two members of the court, or other persons whom the court shall appoint, shall fix and ascertain the same, by marks on the land, and express the same in writing, under their hands and seals; which shall be recorded in the court, and shall be sufficient to fix and ascertain the bounds thereof.

Repealing clause.

VIII. *And be it further enacted*, That so much of the said recited act of Assembly, as relates to the method therein directed to be taken by persons intending to build a water mill, and having land only on one side of the run, shall be, and is hereby repealed.

CHAP. XII.

An Act, for the encouragement of making Salt-Petre.

Preamble.

I. **F**ORASMUCH as the making salt-petre will be of great advantage to his majesty's subjects; therefore for the encouragement of so useful an undertaking,

1000l. current money, approved.

II. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and*

it is hereby enacted by the authority of the same, That the sum of one thousand pounds current money, be appropriated and paid to the person or persons who shall make, or cause to be made, good and merchantable salt petre: Which said sum of one thousand pounds. shall be given and paid, as a reward or premium, for the making of salt petre, after and according to the rates following; that is to say, for every pound weight of salt petre, made according to the above directions, the sum of three pence.

priated to
the makers
of saltpetre.

Premium 3d.
a pound.

III. Provided always, and it is the true intent and meaning of this act, That every person or persons making such salt petre, as aforesaid, before they shall be intituled to claim and demand the reward or rewards given by this act, shall apply to the court of the county in which the salt petre shall be made, which court is hereby impowered and required to order two honest and skilful persons to view, try, and weigh all barrells, casks, or parcels of salt petre so made, and to return to the said court, an account upon oath, of the nett weight of all such salt petre as they shall adjudge to be good, sound, and merchantable; and on such return, and the oath, or solemn affirmation of the person or persons claiming the reward, that the salt petre so produced to the persons appointed to view the same, was made in this colony, and that no person or persons have, before that time, received or intituled him, her, or themselves to the reward given by this act; that then, and in such case, the court of the said county shall immediately certify the same to the treasurer of this colony, for the time being, who is hereby impowed and required, upon producing such certificate, to pay all such sum or sums of money, as shall appear to be due by virtue of this act.

Manner of
obtaining the
bounty money
given by
this act.

IV. And be it further enacted, by the authority aforesaid, That every person or persons, who in obtaining any certificate or certificates whereby to intitle him, her, or themselves to the reward or premium hereby given, shall make a false oath, and be thereof lawfully convicted, such person or persons so offending, shall incur the pains and penalties inflicted by law, on persons committing wilful and corrupt perjury.

Penalty for
making a
false oath.

V. And be it further enacted, That this act shall commence on the first day of November next,

Commence-
ment of the
act.

An Act, for appointing several new ferries.

New ferries
appointed,
and their
rates settled.

I. **B**E it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same. That public ferries be constantly kept at the places herein after named; and that the rates for passing the said ferries be as follows:

On Appomattox river, above the narrow falls, from the land of William Pride, in the county of Henrico, over the said river, to the land of the said Pride, in Prince George county, the price for a man, two pence, and for a horse, the same.

From the land of William Cabbell, in Albemarle county, at the mouth of Swan's creek, over the Fluvanna river, to the land of Samuel Spencer, the price for a man, three pence, and for a horse, the same: And from the land of the said William Cabbell, over Tye river, to the land of the said Cabbell, the price for a man, three pence, and for a horse, the same.

On Patomack river, from the land of William Clifton, in Fairfax county, over the said river, to the land in the tenure of Thomas Wallis, in Prince George county, in Maryland, the price for a man, one shilling, and for a horse, the same. From the land of Hugh West, in Fairfax county, over the said river, either to Frazier's or Addison's landings, the price for a man, one shilling, and for a horse the same.

From York, Hampton, and Norfolk towns, to the land of Littleton Eyre, on Hungar's River, in Northampton county, and from thence to either of the aforesaid places, the price for a man passing singly, twenty shillings, and for a horse the same; for a man and horse, or if there be more, for each, fifteen shillings. From Todd's warehouse landing, in King and Queen county, to the land of Robert Armistead Bird, in King William county, the price for a man, two pence, and for a horse the same.

For wheel-
carriages.

II. And that the courts of the several counties where in such ferries shall be kept, shall have power to appoint proper boats to be kept at the said ferries, for the convenient transportation of coaches, waggons, and other wheeled carriages: That when such boats shall

be so provided and kept, it shall and may be lawful for the keepers of such ferries, to demand and take, for the ferriage and carriage of such wheel carriages, the following rates; (to wit.) for every coach, chariot, or waggon, and for the driver thereof, the same as for the ferriage of six horses, according to the rates herein before settled at such ferries respectively; and for every cart or four wheeled chaise, and the driver of such chaise, the same as for the ferriage of four horses; and for every two wheel chaise, or chair, the same as for the ferriage of two horses, according to the said rates, and no more: And that the licenses for keeping the said ferries, shall be obtained in the same manner, and the keeper thereof have such exemptions and advantages, and be under the like regulations and restrictions, as is and are by law provided for and in respect of the keepers of public ferries, heretofore settled and appointed. Licences, &c

III. *And be it further enacted*, That at the county ferry over the Fluvanna, in the county of Albemarle, from the land of Daniel Scott, to the land of William Battersby, the ferry keeper be allowed to take the following rates; (to wit,) for a man, three pence, and for a horse, the same; for wheel carriages, and the drivers thereof, the same rates as are allowed to the keepers of public ferries, and no more.

CHAP. XIV.

An Act, for making reparation for the Tobacco lately damaged and lost in Gray's creek and York Warehouses.

1. **W**HEREAS large quantities of tobacco have been lately damaged and lost, at the public warehouses at Gray's creek on James river, in Surry county, and at York town, on York river, in York county, by the overflowing of the tide, a particular account of which tobaccos, with the names of most of the proprietors, is stated in a schedule hereunto annexed; wherefore, to the end the sufferers therein mentioned may receive full satisfaction and reparation, for their several losses; Compensation for tobacco damaged and lost in Gray's creek and York warehouses.

II. *Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same.* That the treasurer of this colony out of the public money in his hands, shall pay to the sufferers respectively, according to the several quantities of tobacco by them lost at the public warehouse at Gray's creek, aforesaid, after the rate of fifteen shillings per hundred; and according to the several quantities by them lost at the public warehouse at York, aforesaid, according to the rates following; (to wit,) unto Edward Digges, gentleman, one of the sufferers, after the rate of one pound five shillings per hundred; and unto the other sufferers there, after the rate of sixteen shillings and eight pence per hundred: And that the said treasurer, for all tobaccos damaged and lost at Gray's creek warehouse, as aforesaid, pay the several sums due to each proprietor, to the bearer of the inspectors notes, where notes were given; and where no notes were given, then to the person producing sufficient proof of his or her property, upon oath made, before some justice of the peace of the county where he or she resides, and certified under the hand of such justice: And for all tobaccos damaged and lost at York warehouse, as aforesaid, to the several proprietors mentioned in the schedule aforesaid; which shall be a sufficient discharge to him, as to all the tobacco contained in the said schedule.

III. And whereas one hogshead of tobacco, saved out of the tobacco damaged at Gray's creek warehouse, is now remaining in the inspectors hands, and the inspectors at both the said warehouses have been at great trouble and expences, in picking and reprizing the damaged tobacco aforesaid:

IV. *Be it further enacted, by the authority aforesaid,* That the hogshead of tobacco saved as aforesaid, be by the treasurer sold; and that out of the public money in his hands, he pay to the inspectors at Gray's creek warehouse, aforesaid, the sum of eleven pounds eight shillings; and to the inspectors at York warehouse, aforesaid, the sum of thirty four pounds ten shillings, for their trouble and expences; and that the money arising by the sale of all the tobacco saved out of the damaged tobacco at Gray's creek warehouse, and

sold by the treasurer, be, when received for the use of the public.

The SCHEDULE to which this act refers.

A List of Tobacco drowned in Gray's creek warehouse.

When received.

1743. November 30.

<i>Of whom.</i>	<i>No.</i>	<i>G.</i>	<i>N.</i>	<i>Tare.</i>	<i>To. prized in.</i>
John Cox,	16	1010	899	111	

December 1.

John Warren,	19	1106	1010	96	
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Benjamin Warren,	20	1115	1011	104	
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December 7.

Robert Petway,	24	1150	1053	97	
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December 3.

Nicholas Faulcon,	30	1162	1065	97	
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December 14.

John Judkins,	32	1129	1034	95	
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Nicholas Faulcon,	36	1095	997	98	
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December 15.

Ditto,	37	1097	1004	93	
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December 16.

Wil. Newsum, sen.	43	954	853	101	
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Robert Petway,	45	1070	971	99	
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Robert Nicholson,	47	1150	1060	90	
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Nicholas Faulcon,	48	1121	1030	91	
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Ditto,	49	1062	969	93	
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January 12.

William Clinch,	60	985	899	86	
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January 25.

Thomas Edwards,	74	1014	899	115	
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Nicholas Faulcon,	82	959	864	95	
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Ditto,	83	1169	1075	94	
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January 30.

Robert Petway,	101	1150	1079	101	
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February 8.

Ditto,	111	1108	1003	105	
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W. Newsum, sen.	112	983	879	104	
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Faith King,	113	969	871	98	
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February 9.

Samuel Rowel,	116	1093	998	95	
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February 10.

Charles White,	120	1077	970	107	
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Ditto,	121	1057	959	98	
Joseph Clinch,	123	1001	890	111	
February 13.					
Edward Bayley,	125	1097	1005	92	
Ben. Warren,	126	1117	1007	110	
Edward Bayley,	128	1088	979	109	
Robert Watkins,	129	1035	935	100	
Ditto,	132	1023	922	101	
Ditto,	133	1044	941	103	
Benj. Warren,	134	1102	997	105	
Robert Petway,	135	1131	1031	100	
February 24.					
Col. B. Harrison,	136	1038	940	98	
March 5.					
Robert Petway,	150	1136	1046	90	
March 6.					
Joseph Petway,	164	813	716	97	184
March 9.					
William Merriot,	172	930	829	101	
March 13.					
Col. B. Harrison,	187	988	893	95	
Ditto,	188	1062	969	93	
March 15.					
Bedles Underwood,	201	795	710	85	193
March 19.					
John Mooring,	208	921	816	105	100
March 20.					
Capt. W. Brown,	219	1072	976	96	
George Briggs,	220	1070	981	89	
Ditto,	222	1069	977	92	
March 21.					
John Holt,	228	1249	1139	110	
Ditto,	229	1040	934	106	
Ditto,	230	1177	1053	114	
Ditto,	231	1153	1052	101	
1744. November 23.					
Philip Ludwell,	1	1309	1183	126	
Ditto,	2	1300	1174	126	
March 21.					
John Holt,	}	232	1103	992	111
		233	1047	941	106
		234	1103	995	108
		235	1233	1141	92
		236	1089	998	91
		237	1080	980	100

March 31.

Capt. John Ruffin, 240 1207 1116 91

April 6.

Anthony Holladay, 259 943 847 96

April 12.

George Briggs, 267 1072 982 90

Henry Watkins, 281 957 875 82

April 13.

Col. B. Harrison, 283 1016 918 98

284 1023 927 96

April 23.

Samuel Magitt, 290 1014 914 100

April 24.

Cap. John Ruffin, 295 1183 1076 107

April 26.

John Fennell, 299 963 867 102

300 922 815 107

301 893 791 102 112

May 1.

Col. B. Harrison, 302 1025 928 97

May 2.

William Womack, 304 950 800 150 120

Joseph Thorp, 305 1032 934 98

May 31.

Peter Martin, 313 938 830 108

June 6.

Gilbert Gray, 316 897 802 95 100

June 7.

Henry Tyler, 322 916 820 96

June 14.

Joseph Thorpe, 328 1016 918 98

329 1091 969 122

June 21.

John Jarret, 330 915 822 93

Thomas Reeks, 332 870 774 96 127

June 27.

Richard Andrus, 343 1071 990 81

June 29.

345 1120 1021 99

Thomas Collier, 346 1067 973 94

Christ. Mooring, 347 912 823 89 70

351 925 837 88

Thomas Collier, 354 1027 941 86

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July 5.

John Tyns,	361	825	735	90	169
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July 11.

Robert Gray,	366	967	870	97	
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July 17.

John Groves,	373	1144	1044	100	
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July 19.

John Collier,	379	1036	946	90	
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July 23.

Benjamin Carrol,	391	1292	1177	115	
	392	628	524	104	381

July 26.

Nicholas Jones,	401	1139	1015	124	
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July 27.

Benjamin Carrol,	406	1264	1152	112	
Thomas Jordan,	407	1120	1003	117	
Mary Lucas,	408	725	616	109	287
Joseph Thorpe,	409	977	880	97	
Cap. John Ruffin,	410	955	845	110	90

July 31.

Robert Warren,	413	852	758	94	145
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Transfer Tobacco.

James Balfour,	297	934	850	84	
Capt. John Ruffin, M	996	909	87		
John Mason, R	996	900	96		
James Balfour, L	961	873	88		
Capt. John Ruffin, I	981	902	79		
N	1004	903	101		

Outstanding notes sold to,

Samuel Judkins,	887
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Transfer Tobacco, left for

Capt. Ruffin,	769
Capt. Cocke,	209
Mr. Binns,	135

An account of each person's loss, who had Tobacco
damaged in York Warehouse, December 1744.

	hhds.	lbs. lost.
Charles Carter,	6	942
William Lightfoot,	2	206
Young Morland,	1	180
Ralph Wormley,	1	15
Francis Lee,	1	318
Rebecca Goodwin,	1	39
Mildred Smith,	4	355
John Ballard,	8	1028

Robert Shields, jun.	11	1109
Matthew Hubbard,	8	1140
John Dixon,	2	70
Theoph. Pugh,	3	393
Philip Ludwell, esq.	1	279
Hon. L. Burwell, esq.	33	1987
William Harwood,	4	526
Hon. W. Nelson, esq.	4	526
Richard Ambler,	13	1434
Edward Digges, esq.	11	2077
Hon. P. Lightfoot, esq.	8	1786
Nath. Bacon Burwell,	16	1400

CHAP. XV.

An Act, for altering several Court days.

I. WHEREAS the court days of the several counties of Nansemond, Isle of Wight, Princess Anne, Norfolk, King William, Albemarle, and Augusta, as the same are now settled are found to be inconvenient:

II. Be it therefore enacted, by the Lieutenant Govern- Court days of
or, Council and Burgesses of this present General As- Nansemond,
sembly, and it is hereby enacted, by the authority of the Isle of
same, That from and after the first day of May next, Wight, Prin-
the court of the said county of Nansemond shall be cess Anne,
held, on the second Monday: The court of the said Norfolk,
county of Isle of Wight, on the second Thursday: King Wil-
The court of the said county of Princess Anne, on the liam, Albe-
third Tuesday: The court of the said county of Nor- marle, and
folk, on the third Thursday: The court of the said Augusta, al-
county of King William, on the third Friday: The tered.
court of the said county of Albemarle, on the second
Thursday: And the court of the said county of Au-
gusta, on the third Wednesday, in every month. Any
law, custom, or usage, to the contrary thereof not-
withstanding.

CHAP. XVI.

*An Act, for paying the Burgesses wages in Money,
for this present session of Assembly.*

Preamble.

I. **W**HEREAS, by one act of Assembly, made in the third and fourth years of the reign of his present majesty, intituled, An act, for the better regulating the payment of the burgesses wages, it was amongst other things enacted, that when any session of Assembly should be thereafter held, and upon examination of the treasurer's accounts, it should appear, that there are monies sufficient, in his hands, to discharge all the money debts, together with the burgesses wages, and the salaries and allowances to the respective officers of the General Assembly, leaving and reserving in the hands of the treasurer, over and above the said payment, a ballance of one thousand five hundred pounds at the least; then every burgess elected, and serving, for a county or corporation, within this dominion, should be paid, out of the said public money, the sum of ten shillings, for each day he should serve in the house of burgesses, with such further allowances, and under such restrictions, and regulations, as in the said act is at large directed.

II. And whereas, by reason of great arrearages of the duty upon slaves, and other contingent charges, the wages of the burgesses for this present session, cannot be discharged in money, according to the letter of the said act; but it is likely, that by receipt of the said arrearages, and otherwise, there will soon be money sufficient in the hands of the treasurer: And forasmuch as the payment of the burgesses wages, in money, for this present session, will be a great ease to the poorer sort of people, by lessening the levy by the poll:

Burgesses
wages to be
paid in mo-
ney.

III. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same.* That the burgesses wages, for this present session of Assembly, shall be paid by the treasurer, on the thirtieth day of October next ensuing, out of the public money then in his hands, according to the directions and regulations in the said recited act mentioned. And thing in the

said act, to the contrary thereof, in any wise, notwithstanding.

CHAP. XVII.

An Act, to amend the act, for giving a reward for killing Wolves in the county of Frederick; to be levied on the inhabitants of the said county, by the court; and for altering several court days; and to collect a Tax already laid on the inhabitants of Augusta County.

I. **W**HEREAS, by the act of Assembly, made in the eighteenth year of the reign of his pre- Preamble.
sent majesty, intituled, An act, for giving a reward, for killing of Wolves, in the county of Frederick; to be levied on the inhabitants of the said county; and for altering several court days; it is enacted, That from and after the first day of November next, a reward of six shillings, for every old Wolf, and two shillings and six pence, for every young Wolf, killed within the county of Frederick, shall be paid to the party obtaining certificate thereof, under the hand of a justice of peace of the said county, upon oath, and legal proof, before him made; and the justices of the said county of Frederick, shall and may, annually, at the court held for laying the county levy, raise and levy, upon the tithable persons therein, the rewards due upon such certificates, to the court produced; to be discharged in money or grain, at the rate settled by such court, from time to time, and to be paid to the persons, respectively, intituled thereto, at the next county court held after such levy laid, for and during the term of four years. And whereas the justices of the said county court of Frederick, hath hitherto neglected or refused to levy, and raise the rewards due, for killing Wolves, as in and by the said recited act is directed, to the great loss and prejudice of persons intituled to such rewards:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the justices of the said county shall levy, for all certificates to be produced to them since the
Rewards for killing wolves in the county of Frederick

first day of November, 1744, unto the first day of May, 1746, six shillings, for every old Wolf, and two shillings and six pence, for every young Wolf; and after the said first day of May, 1746, there shall be a reward of ten shillings, for every old Wolf, and five shillings, for every young Wolf killed in the said county; to be levied in current money upon the tithable persons within the said county, for all certificates obtained and produced, as aforesaid, annually, at the court held for laying the county levy, and to be paid to the persons respectively entitled thereto, within six months after such levy laid, for and during the remainder of the term of four years, aforesaid: And if the justices of the said county shall refuse or neglect to levy such reward, every justice of the peace, so refusing or neglecting, shall respectively forfeit and pay the sum of five pounds; one moiety to our sovereign lord the king, for and towards the better support of this government, and the contingent charges thereof, and the other moiety to him, or them, that will inform or sue for the same: To be recovered with costs, by action of debt or information, in any court of record within this colony and dominion.

III. *And be it further enacted, by the authority aforesaid,* That so much of the said recited act as is contrary to this act, be, and the same is hereby repealed.

IV. And whereas the act, made in the fifteenth year of the reign of his present majesty, intituled, An act, for laying a tax on the inhabitants, of Augusta county, and appropriating the money thereby arising to their use, is ceased and determined, the governor, with the consent of the council, having lately erected a court for the said county; by which means the collectors of the tax therein mentioned, have no power to collect, or make distress for the same:

Sheriff of
Augusta, au-
thorised to
collect cer-
tain taxes
therein.

V. *Be it further enacted, by the authority aforesaid,* That the sheriff of the said county of Augusta, for the time being, shall and may levy the said tax, or so much thereof as is now in arrear and unpaid, by distress and sale of the delinquents goods, in the same manner as for non payment of the public and county levies in this colony; and shall pay the monies, so to be by him levied and received, to the several persons intituled thereto, by virtue of the last mentioned act,

and shall also account for the same, or so much thereof, as shall be put into his hands to collect, according to the said act.

CHAP. XVIII.

An Act, for the more effectual clearing of James and Appomattox Rivers.

I. WHEREAS great numbers of the inhabitants of the counties of Goochland, Amelia, and Albemarle, do bring their tobacco down James and Appomattox rivers, for the more convenient transportation of the same, to the public warehouses; and it hath been questioned, whether, by the laws now in force, the justices of the county courts are sufficiently impowered to order the clearing the said rivers above the ebbing and flowing of the tide: Therefore, for settling that matter,

Courts of Henrico, Prince George, Amelia Goochland, and Albemarle, authorised to order the clearing of James, and Appomattox rivers.

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the passing of this act, it shall and may be lawful for the justices of the several county courts of Henrico, Prince George, Amelia, Goochland, and Albemarle, and they are hereby impowered, to order the clearing of the said rivers, where they are now or may hereafter be obstructed, by any trees or stumps, whether the same be above the ebbing and flowing of the tide or not; and to levy the charge thereof on the tithables of the county or counties, as the case may be, pursuant to the directions of an act, made in the eighth year of the reign of his late majesty king George the first, intituled, An act, for the more effectual clearing of rivers and creeks.

III. *And be it further enacted, by the authority aforesaid,* That if any person or persons shall hereafter fall, or cause to be fallen, any tree, into either of the said rivers where they are navigable, and not immediately clear the same away, he, she, or they, shall forfeit and pay, for the first offence, ten shillings, and for every offence after, fifteen shillings, to the informer; to be recovered with costs, before a justice of the peace.

IV. And whereas the making and raising of mill-dams, and stone-stops, or hedges for catching of Fish, is a great obstruction to the navigation of the said rivers; *Be it further enacted, by the authority aforesaid,* That all mill dams, stone stops, and hedges, already made across either of the said rivers, where they are navigable, shall be thrown down and destroyed by the person or persons who made the same; and that for the future, no mill-dam, stone-stop, or hedge, shall be made, placed, or set, in either of the said rivers; but that every person who shall not, before the last day of October next, remove and destroy any and every mill dam, stone-stop, and hedge, so made and set up in the said rivers, or who shall hereafter presume to erect, make, or set up, any such mill dam, stone-stop, or hedge, shall forfeit and pay to the informer, five hundred pounds of tobacco, for every such offence; to be recovered, with costs in any county court, by action of debt, bill, plaint, or information: And if after conviction, the person or persons so offending, shall suffer the said mill-dam, stone-stop, or hedge, to continue, and not destroy the same, he, she, or they, so offending, shall for every week they suffer the same to remain, forfeit and pay, to the informer, one hundred pounds of tobacco, over and above the penalty already inflicted by this act; to be recovered with costs, before a justice of the peace, if the forfeiture exceed not two hundred pounds of tobacco, or else in the county court, if it exceed that sum.

V. *Provided always,* That where any mill-dam is already made across either of the said rivers, and the owner or owners thereof, shall, before the last day of October next, make a lock or passage through the same, that boats or other vessels may pass with safety, unless impeded by rocks below the dam, such owner or owners shall not be liable to the penalties or forfeitures in this act mentioned: Any thing herein contained, to the contrary thereof, in any wise, notwithstanding.

VI. *And be it further enacted, by the authority aforesaid,* That the several county courts of Henrico, Prince George, Goochland, Amelia, and Albemarle, shall, if they think it necessary, in the month of April or May, yearly, appoint two or more proper persons as surveyors to clear the said rivers, and view

any locks made in any such mill dams, and such surveyors shall report to the next court, the sufficiency or insufficiency of such locks; and if it shall appear to any of the said courts, by such report, that any such locks are not sufficient for the passage of boats or other vessels, that then such court to whom such report is made, shall order the pulling down and destroying such mill-dams and locks, unless the owner or owners thereof shall, before the first day of October following, repair and make sufficient the lock or locks so complained of.

VII. *And be it further enacted, by the authority aforesaid,* That before the pulling down and destroying any such mill-dams and locks, the court of the county where such mill-dams are, shall appoint four or more of their number, to view such mill-dams and locks, who, if the said locks are, in their opinion, still insufficient, shall immediately direct the pulling down of the same, unless the proprietor can offer some expedient that shall be acceptable to the said viewers, and which he will become bound to perform; and if the pulling down be resolved on, they shall report their opinion of the value thereof, upon oath, to the next court; which report and valuation shall, at the court to be held for the proof of public claims in their county, be certified to the next succeeding Assembly, that such valuation may be paid to the owner or owners of such mills, to be levied on those counties which shall be benefitted by the pulling down such mill-dams and locks.

VIII. *And be it further enacted,* That this act shall continue and be in force four years, and from thence to the end of the next session of Assembly.

CHAP. XIX.

An Act, for giving a certain sum of money to trustees, for clearing the Fluvanna, and for appointing a store house at Westham; and for other purposes therein mentioned.

I. **W**HEREAS it is found, by experience, that the Money vested in commissioners to clear Fluvanna river is, in some measure, useful for transporting tobacco, and other things, but that sever-

al places in the said river are obstructed by rocks, so as to render the navigation difficult and hazardous; and it being thought that the clearing the said river will be a great advantage to the inhabitants of this colony, especially those to the Westward of the great mountains: Therefore, for the encouraging of so useful an undertaking,

II. Be it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the treasurer of this colony shall, and he is hereby impowered and directed, out of the public money now in his hands to pay to Joshua Fry, Charles Lynch, Benjamin Cocke, William Randolph, and Peter Jefferson, gentlemen, the sum of one hundred pounds, in trust, to be by them or the survivors of them, applied towards clearing the said river, in such manner as shall by them be thought most convenient: And the said Joshua Fry, Charles Lynch, Benjamin Cocke, William Randolph, and Peter Jefferson, gentlemen, shall be, and they are hereby required, to apply the aforesaid sum of one hundred pounds, as soon as conveniently may be, to and for the use and purpose herein before mentioned, and be accountable for the same, from time to time, to the General Assembly.

Public store-
houses to be
erected at
Westham,

III. And whereas it is expedient, that a public storehouse should be appointed, above the falls of James river; Be it therefore further enacted, by the authority aforesaid, That a public storehouse shall be appointed at Westham, on the land of William Byrd, and shall be constantly kept and maintained, by the proprietor thereof, for the receiving tobacco and other goods and merchandizes; and that there shall be paid and satisfied to the proprietor thereof, by the owner or owners of such tobacco, or other goods or merchandizes, which shall be lodged and kept therein, for the storage for the same, the rates and prices following; viz, for every cask, containing sixty gallons, and upwards, and every bale or parcel of the like or greater bulk, six pence, for the first day, or three months, and one penny for every month afterwards; and for every cask under sixty gallons, and for every bale or parcel of a less bulk than a sixty gallon cask, three pence, and one penny, respectively, for every month, as aforesaid; and for all salt and grain not packed in cask, the price

of storage shall be after the rate of eight pence for sixteen bushels, and so proportionable for a lesser or greater quantity, for the first day or three months, and one penny for every month afterwards: Which several rates and prices shall be paid and satisfied, before such tobacco, goods, or merchandizes, so lodged in the said storehouse, shall be taken out or removed threfrom; and that the proprietor shall keep every parcel of salt and grain, brought loose and unpacked to the said storehouse, in separate heaps or parcels, unmixed with any other, and shall deliver out the whole thereof as received; and if it shall have really lost any of its quantity by melting, or by rats, or other unavoidable accidents, the owner of such goods shall bear the loss, unless it exceed the sum or quantity of five per cent. if taken out in three months, or if it lie longer, one per cent. per month, not exceeding ten per cent. in the whole.

IV. *And be it also further enacted, by the authority aforesaid,* That if the proprietor of the said storehouse shall refuse to take in any tobacco, goods, or merchandizes, which shall be brought to such house, he or she, so refusing, shall be liable to satisfy, make good, and pay the owner or owners thereof, all such damages as he, she, or they shall sustain, by reason of the said tobacco, goods, or merchandizes, not being received and kept in such storehouse; and moreover shall be liable to an action at common law, for any damage that shall or may happen to any such tobacco, goods, or merchandizes, during the time they shall be in the custody, or under the care of the said proprietor, or which shall be lost out of the said warehouse, for want of due care.

V. And whereas many persons who live distant from navigation, and have their goods landed at storhouses, have suffered greatly, by not having them preserved from wet, and other casualties; and it is hard to fix upon the person by whom the neglect or abuse is committed: *Be it therefore further enacted,* That for the future, the owner or keeper of any storehouse, shall, at the time of receiving any goods or merchandizes into his or her care, give a receipt, in writing, to the person or persons who shall deliver the same; in which receipt shall be particularly mentioned the marks numbers and condition of the several sorts of goods by

him or her received, which receipt shall be by the owner or keeper of the said storeroom, fairly entered, in a book, to be kept for that purpose: And if the owner or keeper of such storeroom shall fail to make a fair entry in his or her book, as aforesaid, or refuse to give a true copy of such receipt when required, he or she in either case so offending, shall forfeit and pay the sum of twenty shillings, to the informer: To be recovered, with costs, before any justice of the peace in that county wherein the said offence shall be committed.

CHAP. XX.

An Act, for confirming the vestries of the parishes of St. Anne and Truro; and for dissolving the vestries of the parishes of St. Margaret and Newport.

Election of vestries of St. Anne & Truro confirmed.

Vestries of St. Margaret and Newport dissolved.

I. **W**HEREAS some doubts have arisen, whether the election of vestrymen in the parish of St. Anne, in the county of Albemarle, and the last election of vestrymen in the parish of Truro, in the county of Fairfax, were strictly legal and regular:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the said elections of vestrymen in the said parishes of St. Anne and Truro, be confirmed, and the said vestries are hereby established, as and for the legal vestries of the said parishes: And all and every levy and levies heretofore assessed, and every other act and thing by such vestries done or suffered, shall be, and they are hereby declared to be good, valid and effectual, to all intents and purposes.*

III. And whereas it hath been represented to this Assembly, that the election of vestrymen in the parish of St. Margaret, in the county of Caroline, on the twenty first day of May last past, was disorderly and illegal: *Be it therefore enacted, by the authority aforesaid, That the vestry, or pretended vestry of the said parish, is, and are hereby dissolved: And that all and every act and acts, thing and things, which at any time or times hereafter, shall or may be performed suffered, or done by them, as a vestry or pretended ves-*

try of the said parish, shall be, and are hereby declared to be utterly void, to all intents and purposes whatsoever.

IV. *Provided always*, That all and every levy and levies heretofore laid, and all and every other act and thing by the said vestry or pretended vestry, done or suffered, shall be good, valid, and effectual, in as full and ample manner, as if the election of the said vestry had been legal and regular.

V. *Provided also, and be it enacted*, That the collector of the said parish of St. Margaret, shall and he is hereby impowered and required, to pay and satisfy, unto the present minister or incumbent of the said parish, on or before the last day of May next, the salary allowed him by law, out of the tobacco in the state of the last levy, in the same manner as if it had been therein particularly levied for his use: And in case such collector shall fail to pay the same, he shall be liable to the action of the said minister or incumbent, his executors or administrators; for all damages to be sustained, by reason of the non-payment of such salary.

VI. And whereas the vestrymen of the parish of Newport, in the county of Isle of Wight, have represented to this Assembly, that they are old and infirm, and thereby rendered unable to perform their duty, and have prayed to be dissolved: *Be it therefore enacted, by the authority aforesaid*, That the vestry of the said parish of Newport, be, and it is hereby dissolved: And that all and every act and acts, thing and things, which, at any time or times hereafter, shall or may be performed, suffered, or done by them, as a vestry of the said parish, shall be void, and of none effect.

VII. *And be it further enacted, by the authority aforesaid*, That the freeholders and house keepers of each of the said parishes of St. Margaret and Newport, shall meet at some convenient time and place, to be appointed and publickly advertised, at least one month before, by the sherifs of the said counties of Caroline and Isle of Wight, respectively, before the first day of June next, and then and there elect twelve of the most able and discreet persons of their several parishes, to be vestrymen of the said respective parishes: Which said vestrymen so elected, having taken the oaths ap-

pointed by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall to all intents and purposes, be deemed and taken to be the vestrymen of such parishes.

CHAP. XXI.

An Act, for settling the allowance on Tobacco paid in the county of Lunenburg, in discharge of public debts; and to oblige the surveyors of that county to reside therein.

Public levies
and fees in
Lunenburg,
how payable
in tobacco.

I. **B**E it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That all tobacco which shall be due in the county of Lunenburg, for levies, quit-rents, secretary's, clerks, sheriffs, surveyors, or other officers fees, shall be paid and discharged in inspectors notes, of Cabbins-Point, or any other warehouse above, on the south side of James river; and that an abatement or allowance out of the said quit-rents and officers fees, of thirty pounds of tobacco for every hundred, and so proportionably for a greater or lesser quantity, shall be made to the person paying the same, which he may retain in his own hands.

Surveyors of
Lunenburg,
to reside
therein.

II. *And be it further enacted,* That all and every surveyor and surveyors of land of the said county of Lunenburg, shall be resident in their respective districts in the said county, during the time he or they shall continue in office, on penalty of forfeiting ten pounds sterling, for every month he or they shall reside out of the same, after the first day of October next; one moiety of which shall be to our sovereign lord the king, his heirs and successors, for and towards the better support of this government, and the contingent charges thereof, and the other moiety to him or them that will inform or sue for the same: To be recovered by action of debt, or information, in any court of record within this colony.

CHAP. XXII.

An Act, for dividing the county of Brunswick and parish of St. Andrew; and for other purposes therein mentioned.

I. **W**HEREAS divers inconveniencies attend the upper inhabitants of Brunswick county, by reason of their great distance from the court house, and other places, usually appointed for public meetings:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and immediately after the first day of May next, the said county of Brunswick be divided, by a line to be run from the country line, where it crosses Roanoke river, below the place called the Horse-Foard, to strike Nottoway river at the fork; and that part of the said county which lies below the said line, be erected into one distinct county, and retain the name of Brunswick; and all that other part thereof above the said line, be one other distinct county, and called by the name of the county of Lunenburg. And for the due administration of justice, Brunswick county divided and Lunenburg formed.

III. *Be it further enacted, by the authority aforesaid,* Court days. That after the said first day of May, a court for the said county of Lunenburg be constantly held by the justices thereof, on the first Monday in every month, in such manner as by the laws of this colony is provided, and shall be by their commission directed.

IV. And whereas, by reason of the situation of the parish of St. Andrew, in the said county of Brunswick, the minister and inhabitants do labour under divers inconveniences: For removal of which for the future,

V. *Be it further enacted.* That from and after the first day of May, the said parish of St. Andrew shall be divided into two parishes; that is to say, all that part of the said parish that lies in the county of Brunswick, shall hereafter be esteemed one distinct parish, and be called and known by the name of St. Andrew; and all that part of the said parish of St. Andrew which will be in the county of Lunenburg, shall be erected into one other distinct parish, and called and known Parish of St. Andrew divided.
Cumberland parish formed.

by the name of Cumberland. And for the better ordering of parochial affairs in the said parishes,

VI. *Be it further enacted, by the authority aforesaid,* That the vestry of the said parish of St Andrew, as the same now stands entire and undivided, be, and they are hereby declared to be dissolved; and that the freeholders and housekeepers in the said parishes respectively, shall meet, at some convenient time and place, to be appointed and publickly advertised by the respective sherifs of the said counties of Brunswick and Lunenburg, before the first day of September next, and then and there elect twelve of the most able and discreet persons of their respective parishes; which persons so elected, having taken the oaths appointed to be taken by law, and subscribed to be conformable to the doctrine and discipline of the church of England, shall, to all intents and purposes, be deemed and taken to be the vestries of the said parishes respectively: Which said vestries are hereby impowered and made capable to take, receive, and hold any lands, tenements, or hereditaments, which shall be purchased or given as a glebe or glebes, for the use of the minister of each parish respectively, for the time being, for ever.

VII. *Provided always,* That nothing herein contained, shall be construed to hinder the sheriff or collectors of the said county of Brunswick, and parish of St. Andrew, as they now stand entire and undivided, from making distress for any levies, fees, or other dues, which shall be due from the inhabitants of the said county and parish, after the said first day of May, in such manner, and not otherwise, as by law he or they might have done, if this act had never been made: Any law, custom, or usage, to the contrary thereof, in anywise, notwithstanding.

VIII. And whereas, by one clause of an act of Assembly, made in the twelfth year of the reign of his present majesty, intituled, An act, to encourage settlements on the Southern boundary of this colony, it was enacted, That all and every person and persons whatsoever, who, within ten years after passing the said act, should import themselves into this colony, and settle upon Roanoke river, on the South branch of the same, above the fork thereof, and on the North branch of the said river, above the mouth of Little

Roanoke, otherwise called Lickinghole, including all the lands on all the said branches, and the lands lying between them, then deemed to be in the county of Brunswick, and parish of St. Andrew, should be exempted from the payment of public, county, and parish levies, until the expiration of the said ten years; which said clause those persons now pray may be repealed:

IX. *Be it therefore enacted, by the authority aforesaid, That the same so far as relates to such exemption, be repealed.*

CHAP. XXIII.

An Act, for obliging the parish of St. Martin to repay to the parish of Fredericksville, their proportion of ninety four pounds, levied on the said parish of St. Martin before the division thereof.

I. **W**HEREAS by an act, passed at the last session of Assembly, it was enacted, That the vestry of the parish of St. Martin, should, and they were thereby impowered and required, to levy, upon the tithable persons of the said parish, as much money and tobacco as should be sufficient, to reimburse the parish of Fredericksville their proportionable part of four hundred and ninety six pounds, and ten thousand pounds of tobacco, for building a large brick church, before the division thereof: And whereas it now appears, that the vestry of the said parish of St. Martin, levied upon the tithable persons of the said parish, as the same then stood undivided, ninety four pounds more than the said four hundred and ninety six pounds, and ten thousand pounds of tobacco; and have made humble suit to this Assembly, to have their proportionable part of the same re-imbursed to them: Parish of St. Martin to repay certain monies to parish of Fredericksville.

II. *Be it therefore enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That the vestry of the said parish of St. Martin, shall, and they are hereby impowered and required, to levy, on the tithable persons of the said parish, as much tobacco as shall be sufficient to re-imburse the*

inhabitants of the said parish of Fredericksville, their proportionable part of the said ninety four pounds at the laying the next parish levy; and shall pay the same unto the vestry of the said parish of Fredericksville, for the time being, to be by them applied to the use of the said parish.

CHAP. XXIV.

An Act, for enlarging the power of the Sheriff of James City County.

I. WHEREAS the court-house of the county of James City is so placed, that persons may easily evade being summoned to attend the court as jurors, unless the power of the sheriff of the said county be enlarged, and authority given him, to summon jurors, as well in that part of the city of Williamsburg, which lies in the county of York, as in James-City; to the great delay of justice in the court of the said county of James City:

Sheriff of
James city
authorised to
summon ju-
ries in any
part of Wil-
liamsburg.

II. Be it therefore enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That from and after the passing this act, the sheriff of the said county of James-City, for the time being, and his under-sherifs, or deputies, and every of them, shall be, and they are hereby impowered and authorized, to summon jurors of the inhabitants of James-City, in all and every part of the city of Williamsburg, as well in that part that lies in York as in James-City, to serve on juries on the days appointed for holding courts in the said county of James-City: Any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

CHAP. XXV.

An Act, for preventing the building wooden Chimnies, in the several towns therein mentioned, and pulling down such as are already built in the said towns; and to restrain Hogs going at large in Newtown, and Newcastle.

I. WHEREAS the inhabitants of the several towns of Port Royal, in the county of Caroline, Newcastle, in the county of Hanover, and Suffolk, in the county of Nansemond, are in great danger of having their houses and effects burnt and consumed, by reason of many wooden chimnies, which are already erected and built, and are building and erecting, in the said towns; Wooden chimnies not to be built, in the towns of Port Royal, Newcastle, or Suffolk:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That it shall not hereafter be lawful, for any person whatsoever, to erect or build, or cause to be erected and built in the said towns, any wooden chimney; neither shall it be lawful, for any person whatsoever, after the first day of May, in the year of our lord one thousand seven hundred and fifty, to make use of any wooden chimney already erected in the said towns; and that the owners or proprietors of all such wooden chimnies as now are in the said towns, shall, before the expiration of the time aforesaid, wholly destroy and disuse the same, or cause them to be pulled down; otherwise it shall be lawful for the sheriff of the said counties of Caroline, Hanover, and Nansemond, respectively, and they are hereby required, to cause all such wooden chimnies to be pulled down and demolished: And in like manner, it shall be lawful for the said sheriffs, and they are hereby required, to cause to be pulled down and demolished, all other wooden chimnies, which shall be built or erected in the said towns, respectively, in breach of this act.

III. And whereas it is represented, that a great number of hogs are raised, and suffered to go at large, in Newtown, in the county of Princess Anne, and the said town of Newcastle, to the great prejudice of the inhabitants thereof, *Be it further enacted, by the authority aforesaid,* That from and after the passing of Hogs not to run at large in the towns of Newtown or Newcastle:

this act, it shall not be lawful for any person or persons, owners of any swine, to suffer the same to run or go at large, within the limits of the said towns of Newcastle and Newtown; and if any swine shall be found running or going at large, within the said limits, it shall be lawful for any person whatsoever, to kill and destroy every such swine so running at large.

IV. *Provided always*, That such person shall not convert any such swine to his or their own use, but shall leave the same in the place where it was so killed, and give immediate notice to the owner thereof, if known, and if not, then such person shall immediately, inform the next justice of the peace thereof, who may order the same to the use of any poor person or persons he shall think fit.

V. *Provided always*, That nothing herein contained, shall be construed, deemed, or taken, to forbid or hinder any person or persons from driving any swine to or thro' the said towns or limits thereof, in order to sell the same, or in their removal from one plantation to another.

Fairs to be
kept in New-
castle.

VI And whereas allowing fairs to be kept in the said town of Newcastle, will be very commodious to the inhabitants of that part of this colony, *Be it further enacted*, That for the future, two fairs shall and may be annually kept and held, in the said town of Newcastle, on the first Tuesday in April, and the third Tuesday in November, in every year, each to continue for the space of two days, for the sale and vending of all manner of cattle, victuals, provisions, goods, wares, and merchandizes whatsoever; on which fair days, and two days next before, and two days next after each of the said fairs, all persons coming to, being at, or going from the same, together with their cattle, goods, wares, and merchandizes, shall be exempt and privileged, from all arrests, attachments, and executions whatsoever; except for capital offences, breaches of the peace, or for any controversies, suits and quarrels, that may arise and happen, during the said time; in which cases process may be immediately issued, and proceedings thereupon had, in the same manner as if this act had never been made: Any thing herein before contained to the contrary notwithstanding.

VII. *Provided always*, That nothing herein contained, shall be construed, deemed, or taken, to dero-

gate from, alter or infringe the royal power and prerogative of his majesty, his heirs and successors, of granting to any person or persons, body corporate or politic, the privilege of holding fairs or markets, in such manner as he or they, by his or their royal letters patent, or by his or their instructions, to the governor or commander in chief of this dominion, for the time being shall think fit.

CHAP. XXVI.

An Act, for raising a Public Levy; and other purposes therein mentioned.

I. **B**E it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That five pounds of tobacco be paid, by every tithable person within this dominion, for the defraying and payment of the public charge of the country, being the public levy, from the fourth day of September, one thousand seven hundred and forty four, to the twentieth day of February, one thousand seven hundred and forty five; and that it be paid by the collector of the several counties, to the several persons and counties respectively, to whom it is proportioned by this General Assembly: And if it shall happen that there shall be more tithables in any county than the present levy is laid on, then such county shall have credit for so much, to the use of the county; and if fewer tithables in any county, then such county shall bear the loss.

II. *Provided always*, That where any allowance is made in the book of proportions to any county, to be paid in the same county, no more per poll shall be collected from the tithables of such county, than will discharge the ballance, after such allowance shall be deducted; and that every county court shall regulate the levy accordingly.

III. *And be it further enacted, by the authority aforesaid*, That the sheriff of every county shall, at the time of giving bond for the due collection and payment of the next county levy, also give bond and security, for the due collection and payment of the public levy, now laid and assessed.

IV. And whereas there is a ballance of eight thousand two hundred and eight pounds of tobacco, due to the public, which was levied on the counties of Elizabeth-City, Hanover, and Louisa, as appears by the book of proportions:

V. *Be it further enacted, by the authority aforesaid,* That the sheriff of each of the said counties of Elizabeth-City, Hanover, and Louisa, shall sell the respective sums of tobacco levied in his county, as a depositum, for the use of the public, to the highest bidder, at the court of each county respectively, in the month of June next after receipt of the same; and pay the money arising from such sale, to the treasurer of Virginia, to be by him accounted for to the next session of Assembly.

CHAP. XXVII.

An Act, to vest eighty seven acres of land, appropriated for a glebe in the parish of Hungars, in the county of Northampton, in trustees, to be sold; and for other purposes therein mentioned.

Glebe lands in Hungars parish in the county of Northampton, vested in trustees to be sold.

I. **W**HEREAS a tract or parcel of land, containing sixteen hundred acres, or thereabouts, lying and being in the parish of Hungars, in the county of Northampton, was given and devised by one Charlton, for the use of the minister or incumbent of the said parish, for the time being, besides which, the vestry of the said parish had appropriated eighty seven acres of land for a glebe to that parish; and the said tract of sixteen hundred acres of land, so as aforesaid given by the said Charlton, being a sufficient provision for the incumbent of the said parish, for the time being, especially if some slaves were annexed to the same: And the said eighty seven acres of land being of little or no value to the incumbent, it would be more for his benefit, if the same might be sold, and the purchase-money applyed to the buying of slaves, to be annexed to the said donation of sixteen hundred acres of land:

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the*

same, That the said eighty seven acres of land, with the appurtenances, be, and are hereby vested in Matthew Harmanson, Littleton Eyre, and John Kendall, gentlemen, of the said parish of Hungars, in the county of Northampton, in trust: That they, or any two of them, shall sell, and, by deeds of bargain and sale, convey, for the best price that can be got for the same, the said eighty seven acres of land, with the appurtenances, by such description as they shall think fit and necessary, to any person or persons who shall be willing to purchase the same, to hold to such purchaser or purchasers, in fee simple; and when the same shall be sold and conveyed, the said trustees shall account with the vestry of the said parish of Hungars, who shall receive the purchase-money, in trust, for the applying the same in the purchase of slaves, three of which to be young females, to be annexed to the said sixteen hundred acres of land, for the use of the incumbent, for the time being, for ever: Which said slaves, together with their future increase, so as aforesaid to be annexed, shall be deemed and taken to be in lieu and full satisfaction, of and for any glebe the vestry of the said parish of Hungars ought to purchase or provide for the minister or incumbent thereof: Any law, usage, or custom, to the contrary, notwithstanding.

III. *And be it further enacted, by the authority aforesaid*, That the vestry of the said parish of Hungars, for the time being, shall be, and are hereby empowered and required, to build, upon the said sixteen hundred acres of land, such glebe house, and other necessary houses and conveniences, upon the same, for the use of the minister or incumbent of the said parish, as are and ought by law to be built and made upon glebe lands: Any law, custom, or usage, to the contrary, notwithstanding.

IV. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person or persons, bodies politic or corporate, their respective heirs and successors, other than the minister or incumbent of the said parish, for the time being all right, title, estate, interest, claim, and demand, as they, every, or any of them should or might have had or claimed, if this act had never been made.

An act, to enable George Eskridge, to sell part of a tract of land, not exceeding three hundred and fifty acres, to raise money for the payment of his proportionable part of the debts of his Grandfather.

George Eskridge authorised to sell certain lands, in Westmoreland.

I. WHEREAS George Eskridge, late of the county of Westmoreland, gentleman, deceased, was, in his life time, seised and possessed of divers tracts of land, a large number of slaves, and a considerable personal estate; and being so seised and possessed, made his last will and testament, in writing, bearing date the twenty seventh day of October, one thousand seven hundred and thirty five, whereby, among other specific devises and legacies, he gave and devised unto his son William Eskridge, and the heirs of his body lawfully begotten, a tract or parcel of land, lying and being in the parish of Cople, in the said county of Westmoreland, containing seven hundred acres, or thereabouts, and also ten slaves, to be annexed to, and go and descend with the said land, in tail; and all the rest and residue of his estate, after the payment of his debts, he gave to be equally divided amongst his children then living, as in the said will is more fully contained;

II. And whereas the said testator, at the time of his death, was considerably indebted to several persons in Great-Britain, and this colony, much more than the value of his personal estate amounted to, all which hath been long since administred and spent in the payment of his said debts; and the several devisees and legatees have been compelled to pay large sums of money, in proportion to the respective devises and legacies to them given in the said will, and particularly the said William Eskridge, one of the devisees, did not only pay several sums of money in part of his proportion of the said debts, but also suffered some part of the slaves so annexed to the tract of land to him given, as aforesaid, to be taken in execution, and sold for payment thereof; and for the payment of some other part of the said debts, the said William Eskridge took up money, upon interest.

III. And whereas the said William Eskridge is since dead, leaving issue George Eskridge, his eldest son, and heir at law, since whose death, the said George Eskridge, the grandson, hath been also compelled to pay, and engage to pay other sums of money, in part of his proportion of the debts of the said testator; and actions and suits are now daily brought, to subject the remaining part of the estate of the said testator, in the hands of his devisees, and their representatives, to the payment of debts due from him, the said George Eskridge, the grandson; his proportion of which, together with what sums have been paid, and engaged to be paid, by his said father William Eskridge, and himself, will amount to the full value of the slaves so annexed to the tract of land, given to the said William Eskridge, as aforesaid; which said slaves are liable to be taken in execution for the payment thereof:

IV. And whereas the said tract of land will become of little or no value to the said George Eskridge, the grandson, and unimprovable in case the said slaves shall be taken in execution, and sold, for payment of the said debts; and the said George Eskridge, the grandson, is willing that part of the said tract of land should be disposed of, for payment of the said debts, so that the said slaves may be reserved for the improvement and cultivation of the residue of the said land, and go and descend with the same:

V. And whereas notice hath been published three Sundays successively, in the several parish churches where the said tract of land doth lie, that application would be made, by the said George Eskridge, the grandson, to this General Assembly, for leave to sell and dispose of the said tract of land, or some part thereof, pursuant to your majesty's instructions: Therefore, for enabling the said George Eskridge to pay his proportionable part of the debts of his said grandfather, and to the end the slaves so as aforesaid annexed to the said land, may be preserved to the said George Eskridge, the grandson, and the heirs of his body, in cultivating the remaining part thereof;

VI. May it please your most excellent majesty, at the humble suit of the said George Eskridge, that it

may be enacted, *And be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That from and after the passing of this act, it shall and may be lawful to and for the said George Eskridge, the grandson, and in case of his death his executors or administrators, and he and they are hereby severally impowered, to sell, to any person or persons who shall be willing to purchase the same, any part of the said tract of seven hundred acres of land, not exceeding three hundred and fifty acres; and that the said George Eskridge, the grandson, or in case of his death, his executors or administrators, shall and may, and he and they are further impowered, to make and execute all deeds and conveyances, necessary in the law, for assuring unto any purchaser or purchasers, a good estate, in fee simple, in the part of the said tract of land so to be sold: And such purchaser and purchasers, by virtue of such deeds and conveyances, shall, for ever after, peaceably and quietly hold and enjoy the said lands so respectively by them purchased, to them, and their heirs, for ever; and the money paid by such purchaser or purchasers, shall be applied towards the payment and discharge of the said George Eskridge, the grandson, his proportionable part of the debts of the said testator, and reimbursing him what money hath already been advanced by him, or his said father William Eskridge.

VII. *And be it further enacted,* That the remaining part of the said slaves unsold, together with all their future increase, shall continue annexed to, and go and descend with the residue of the said tract of land, in fee tail, according to the limitations in the will of the said testator.

VIII. Saving to the king's most excellent majesty, and unto all and every other person or persons, bodies politic or corporate, their heirs and successors, other than the persons claiming under the last will and testament of the said George Eskridge, deceased, their heirs, executors, administrators, and assigns, all such right, title, interest, claim, and demand whatsoever, of, in, and to any part of the said land herein before described, as they, or any of them had, should, or might have had, if this act had never been made.

IX. *Provided always*, That the execution of this act shall be suspended, until his majesty's approbation thereof shall be obtained.

CHAP. XXIX.

An Act, to dock the entail of certain lands in the county of Gloucester, late the estate of Thomas Todd, and vesting the same in trustees, to be sold; and the money arising therefrom, to be laid out in slaves, to be settled to the same uses.

I. **W**HEREAS Thomas Todd, late of the county of Gloucester, gentleman, was, in his life time, seised, in fee, of and in divers large tracts of land, and among others, of one certain tract or parcel of land in the said county, situate, lying and being near the north river bridge, containing six hundred acres, with the appurtenances; and being so thereof seised, did make his last will and testament, in writing, bearing date the fourth day of March, in the year of our lord one thousand seven hundred and twenty two, and thereby amongst other things, devised the same unto his grandson, Bernard Todd, the son of Richard Todd, and to the heirs male of his body lawfully to be begotten; and for want of such heirs male, then to his grandson William Todd, son of the said Richard, and to the heirs male of his body lawfully to be begotten; and for want of such heirs male, to the next son in his said son Richard's right line; and for want of such heirs male, in the right line of his said son Richard, then to the right heirs of his son William; and for want of such heirs male in the right line of his said son William, then to the right heirs of his son Philip; and for want of such heirs male in the right line of his said son Philip, then to his son Christopher, and to his heirs male, lawfully to be begotten; and for want of such heirs male of the bodies of any of his said sons, then to the heirs female of his said sons, each of them to inherit and take, as the heirs male of his said sons would have done, had there been any; and for want of issue of any of his said sons, then to his right heirs, for-

Entail of certain lands in Gloucester, of the estate of Thomas Todd, docked.

ever: And some time after the making the said will, the said Thomas Todd died, so seised, after whose death, and the death of his said grandsons Bernard and William Todd, without issue, Thomas Todd, eldest son and heir at law to William Todd, son and devisee of the said Thomas Todd, the testator, entered into the said land, and is thereof seised, in fee tail, by force of the remainder expressed in the said will.

II. And whereas the said Thomas Todd, eldest son and heir at law, as aforesaid is also seised and possessed of divers other entailed lands, by virtue of the said will, and not being able to cultivate and improve the same, for want of Negroes: and whereas it will be greatly to the advantage not only of the said Thomas Todd, but of all other persons claiming in reversion or remainder under the last will and testament of the said Thomas Todd, the grandfather, that the said six hundred acres of land, with the appurtenances, should be sold, and the monies arising thereby, applied in purchasing slaves, to be annexed to the other entailed lands, mentioned in the last will and testament of the said Thomas Todd, the grandfather: And forasmuch as notice has been given in the parish church wherein the said entailed land lies, that application would be made to this present General Assembly, to dock the entail of the said six hundred acres of land;

III. May it please your most excellent majesty, at the humble suit of the said Thomas Todd, that it may be enacted, *And be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and by the authority of the same,* That the said six hundred acres of land, with the appurtenances, be, and are hereby vested in George Braxton, junior, Richard Tunstall, Mordecai Throgmorton, Benjamin Hubbard, and William Bird Richards, gentlemen, in trust; and they or any three of them, shall be, and are hereby authorised and enabled to sell and convey, to any person or persons willing to purchase the same, and for the best price that can be got, the said six hundred acres of land with the appurtenances, and to execute deeds or conveyances, necessary in the law, for assuring unto such purchaser or purchasers, a good estate in fee simple, in the said land so to be purchased; and such purchaser or purchasers shall afterwards, for ever peaceably and quietly have, hold, and enjoy the

land so purchased, to them, their heirs and assigns, for ever:

IV. *And be it further enacted*, That the monies arising by such sale, shall be, by the said trustees, laid out, as soon as conveniently may be, in the purchase of negro slaves, two thirds of the slaves to be female; which slaves so purchased, shall be forthwith placed and settled upon the residue of the lands of the said testator, so as aforesaid devised; and the said trustees shall deliver in the names and number of such slaves so to be placed and settled, with an account of the purchase money thereof, into the court of the said county of Gloucester, there to be recorded; and for ever afterwards, all the said slaves and their increase, shall be annexed to the remaining entailed lands, and shall pass in descent, remainder, and reversion, to such person and persons, and for such estate or estates, as the said remaining entailed lands shall or may pass and descend, by force of the said last will and testament of the said Thomas Todd, the grandfather.

V. Saving to the king's most excellent majesty, his heirs and successors, and to all and every person and persons, bodies politic and corporate, their respective heirs and successors, other than the persons claiming under the last will and testament of the said Thomas Todd, the grandfather, all such right, title, estate, interest claim, and demand, as they, every, or any of them, should or might claim, if this act had never been made.

VI. *Provided always*, That the execution of this act shall be suspended, till his majesty's approbation thereof shall be obtained.

CHAP. XXX.

An Act, for docking the entail of certain lands in the county of Gloucester, late the estate of John Smith, and vesting the same in trustees to be sold; and the money arising therefrom, to be laid out in slaves, to be settled to the same uses.

I. **W**HEREAS John Smith, late of the parish of Entail of cer-
 Petsworth, in the county of Gloucester, gen-
 tleman, deceased, was in his life time, seised, in fee
 tain lands in
 Gloucester of

the estate of simple, offland in divers considerable tracts of land, and John Smith, among others, of and in one certain tract or parcel; docked. commonly called and known by the name of Cheescake, containing, by estimation, twelve hundred and fifty acres, lying and being in the said parish of Petsworth; and county of Gloucester; and being so thereof seised, by his last will and testament, in writing, bearing date the tenth day of May, in the year of our Lord, one thousand seven hundred and thirty five; did give and devise the same, together with all the remainder and residue of his estate, real and personal, not before therein given or devised, unto Anne Alexander, during her natural life, and after her decease, unto Henry Willis, and his heirs; and in case he should die without heir, then to John Willis, his heirs or assigns, for ever, as by the said will, duly proved in the county court of Gloucester, may more at large appear, and died so seised; after whose death, and the death of the said Anne Alexander, the aforesaid Henry Willis entered into the premises, with the appurtenances, to him devised, and is now thereof seised.

II. And whereas the said devised lands in the county of Gloucester, lie very remote from the other estate and place of abode of the said Henry Willis, so as to be inconvenient and of little benefit to him; and for want of a competent number of slaves thereon, the same must lie without cultivation or improvement, unless the said twelve hundred and fifty acres of land may be sold, and the monies arising thereby, applied in purchasing slaves, to be annexed to the residue of the lands devised to him, as aforesaid, which will be more beneficial to those claiming in reversion or remainder under the will aforesaid: And forasmuch as due notice has been published in the church of the said parish, that application would be made to this present General Assembly, to dock the entail of the said twelve hundred and fifty acres of land, called Cheescake, pursuant to your majesty's instructions.

III. May it please your most excellent majesty, at the humble suit of the said Henry Willis, that it may be enacted, *And be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same,* That the said tract or parcel of land, with the

appurtenances, commonly called or known by the name of Cheescake, containing by estimation, twelve hundred and fifty acres, and being parcel of other lands so as aforesaid devised, by the last will and testament of the said John Smith, be, and is hereby vested in Francis Willis, John Lewis, Beverley Whiting, Francis Willis, junior, Samuel Buckner, and David Alexander, gentlemen, in trust; and they, or any four of them, shall be, and are hereby authorised and enabled, to sell and convey, to any person or persons willing to purchase the same, and for the best price that can be got, the said twelve hundred and fifty acres of land above described, either together or in parcels, and to execute deeds or conveyances necessary in the law, for assuring unto such purchaser or purchasers, a good estate, in fee-simple, in the lands so to be purchased; and such purchaser or purchasers shall afterwards, for ever, peaceably and quietly have, hold, and enjoy the land so purchased, to them, their heirs, and assigns, for ever.

IV. *And be it further enacted*, That the monies arising by such sale, shall be, by the said trustees, laid out, as soon as conveniently may be, in the purchase of negro slaves, which shall be forthwith placed and settled upon the residue of the lands of the said testator, so as aforesaid devised; and the said trustees shall deliver in the names and number of such slaves so to be placed and settled, with an account of the purchase-money thereof, into the court of the said county of Gloucester, there to be recorded: and for ever afterwards, all the said slaves, and their increase, shall be annexed to the said last mentioned lands and premises, and shall pass in descent, remainder, and reversion, so long as they, or any of them, shall be living, with the said last mentioned lands, and for ever after shall, from time to time, vest in the person or persons claiming and holding the same, under the last will and testament of the said John Smith.

V. Saving to the king's most excellent majesty, his heirs and successors, and to all and every other person and persons, bodies politic or corporate, their heirs and successors, other than the heirs of the said John Smith, and the persons claiming under his will, all such right, title, estate, interest, claim, and demand, as

they, or any of them, should or might claim, if this act had never been made.

VI. *Provided always*, That the execution of this act shall be suspended, till his majesty's approbation thereof be first obtained.

AT A

Wm. Gooch,
esq. govern-
or.

General Assembly,

SUMMONED TO BE HELD AT

The Capitol, in the city of Williamsburg, on Thursday the sixth day of May, in the fifteenth year of the reign of our sovereign lord George II, by the grace of God, of Great Britain, France, and Ireland, King, defender of the faith, &c And from thence continued, by several prorogations, to Friday the eleventh day of July, in the twentieth year of his said Majesty's reign, and in the year of our Lord, 1746: Being the fourth Session of this Assembly,

CHAP. I.

An act, for giving a sum of money, not exceeding four thousand pounds, towards defraying the expence of inlisting, arming, cloathing, victualling, and transporting the Soldiers raised in this colony, on an intended expedition against Canada.

I. **W**HEREAS his most sacred majesty, for vindicating the honor of his crown, and for restoring the peace and tranquility of Europe, is engaged in a just and necessary war against the French king; and with a fervent and paternal vigilance, ever meditating the advancement of his peoples happiness, and the confusion of our common enemy, hath resolved on an important expedition to the Northward, and required his American colonies to second it with their united forces and abilities; and hath instructed his lieutenant-governor of this colony, to inlist men with all

4000*l.* appropriated for an expedition against Canada.

possible speed, who, with the levies made in the other governments, are to rendezvous at Albany, in New-York, and thence proceed to act in conjunction with the troops from Great-Britain, in the conquest of Canada: And his majesty hath been pleased to declare, that both officers and men are to enter into his pay, from the respective days of their engaging and inlisting, and moreover, that an allowance shall be made for arms and cloaths; this present General Assembly, desirous to give the utmost testimony of their loyalty and affection to his majesty's person and government, and to contribute towards such expedition, have resolved to give such a sum of money as the circumstances of this colony will allow towards defraying the said expence and charges, notwithstanding the present low condition of the public treasury, and that money cannot be raised, without borrowing the same on the credit of the small revenues arising by the duties upon liquors and slaves:

II. *Be it therefore enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That the treasurer of this colony shall, and he is hereby impowered and required, immediately to borrow a sum of money, not exceeding four thousand pounds, or so much thereof as he shall find necessary and expedient, and as the nature of the service to which it is to be applied, requires, at an interest of five per cent. and to pay the same, or so much thereof as shall, from time to time, be necessary, to John Robinson, junior, esq. Mr. Secretary Nelson, Richard Randolph, William Beverley, Beverley Whiting, Benjamin Waller, Carter Burwell, Edward Digges, and John Harmer, gentlemen, to be by them, or any five of them, applied towards defraying the expence and charge of inlisting, arming, cloathing, victualling, and transporting the soldiers so as aforesaid to be raised in this colony, for his majesty's service, as herein before mentioned.

III. And whereas the soldiers so to be raised, cannot be timely supplied with arms in any other manner, than out of the public magazine: *Be it further enacted, by the authority aforesaid,* That it shall and may be lawful to and for the said John Robinson, esq. Mr. Secretary Nelson, Richard Randolph, William Bever-

ley, Beverley Whiting, Benjamin Waller, Carter Burwell, Edward Digges, and John Harmer, gentlemen, or any five of them, to cause the soldiers to be furnished with arms, well fitted, out of the arms belonging to this colony, now in the public magazine, upon obtaining a warrant or warrants under the hand of the lieutenant-governor, or commander in chief, for the time being; and to deduct the costs and charges of such arms so to be furnished, together with the expence of refitting them, out of the money herein before given and granted; and that the said John Robinson, esq. Mr. Secretary Nelson, Richard Raddolph, William Beverley, Beverley Whiting, Benjamin Waller, Carter Burwell, Edward Digges, and John Harmer, gentlemen, do account to the next General Assembly for all monies so by them to be received and applied, by virtue of this act.

IV. And for encouraging persons to lend money upon this occasion, *Be it further enacted, by the authority aforesaid,* That the revenues or duties arising by the importation of liquors and slaves, shall and are hereby declared to stand, be, and remain as a security, for the payment of the money so to be borrowed by the treasurer as aforesaid; and the said treasurer is hereby required to repay the money so to be borrowed, with interest, out of the first public monies that shall come to his hands, either by receipt of the duties aforesaid, or otherwise.

V. *And be it further enacted, by the authority aforesaid,* That if any person, after he shall be enlisted in his majesty's service, shall be found wandering or otherwise absenting himself, it shall and may be lawful to and for any person or persons whatsoever, and they are hereby required, to carry him before the next justice of the peace for the county where he shall be apprehended, who hath hereby power to examine such person; and if by his confession, or the testimony of one or more witnesses, upon oath, or by the knowledge of such justice, it shall appear, or be found, that such person is a listed soldier, and ought to be with the company to which he belongs, such justice, by warrant under his hand, shall forthwith cause him to be conveyed to the public goal of this colony, to be delivered to his commanding officer.

IV. *And be it further enacted, by the authority aforesaid,* That if any person shall harbour, conceal, or assist any deserter, or buy or receive any cloaths or arms from any persons inlisted in his majesty's service, he or she so offending, shall forfeit, for every offence, the sum of five pounds; to be recovered, by action of debt, or information, before any court of record within this colony: One moiety of the said penalty to be paid to the informer, by whose means such deserter shall be apprehended, or the cloaths or arms so bought or received, shall be discovered; and the other moiety to be paid to the officer to whom such deserter or soldier did belong.

VII. *And be it further enacted, by the authority aforesaid,* That it shall not be lawful for any person or persons whatsoever, to trust or give credit to any soldier, inlisted to serve on the said intended expedition, after he shall be so inlisted; and if any person or persons so trusting or giving credit, shall bring any warrant, petition, or suit, for any monies, goods, wares, merchandizes, liquors, or other commodities whatsoever, advanced, lent, sold, accommodated, or delivered to such soldier, after his inlisting, such warrant, petition, or suit shall be dismissed, with double costs; and that all judgments, bonds, notes, contracts, promises, or other securities whatsoever, given or entered into by such inlisted soldier, for any debt, duty, or demand, contracted after he shall be inlisted, shall be void.

VIII. *And be it further enacted, by the authority aforesaid,* That no master of a ship, sloop, or other vessel, shall incur any penalty or forfeiture, for carrying and transporting any of the persons so inlisted, as aforesaid, to any place his majesty shall think fit to order, direct and appoint: Any thing in any other act or acts of Assembly to the contrary thereof, notwithstanding.

CHAP. II.

An Act, for paying the Burgesses wages in money, for this present session of Assembly.

Burgesses
wages to be
paid in mo-
ney.

I. **W**HEREAS, by one act of Assembly, made in the third and fourth years of the reign of

his present majesty, intituled, An act, for the better regulating the payment of the burgesses wages, it was amongst other things enacted, that when any session of Assembly should be thereafter held, and upon examination of the treasurer's accounts, it should appear, that there are monies sufficient, in his hands, to discharge all the money debts, together with the burgesses wages, and the salaries and allowances to the respective officers of the General Assembly, leaving and reserving in the hands of the treasurer, over and above the said payment, a ballance of one thousand five hundred pounds at the least; then every burgess elected, and serving, for any county or corporation, within this dominion, should be paid, out of the said public money, the sum of ten shillings, for each day he should serve in the house of burgesses, with such further allowances, and under such restrictions, and regulations, as in the said act is at large directed: And whereas, by reason of the large sum of money given and granted by this present General Assembly, for carrying on an intended expedition to the northward against Canada, the wages of the burgesses for this present session cannot be discharged in money, according to the letter of the said act: And forasmuch as the payment of the burgesses wages, in money, for this present session, will be a great ease to the poorer sort of people, by lessening the levy by the poll:

II. *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That the burgesses wages, for this present session of Assembly, shall be paid by the treasurer, on the thirtieth day of April next ensuing, out of the public money then in his hands, according to the directions and regulations in the said recited act mentioned. Any thing in the said act, to the contrary thereof, in any wise, notwithstanding.*

Wm. Gooch,
esq: Govern-
or.

AT A

General Assembly,

SUMMONED TO BE HELD AT

{From edit.
1752.]

The Capitol, in the City of Williamsburg, on Thursday the sixth day of May, in the fifteenth year of the reign of our Sovereign Lord George II. by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. And from thence continued, by several Prorogations, to the thirtieth day of March, in the twentieth year of his said Majesty's Reign, and in the Year of our Lord, 1747: Being the fifth session of this Assembly.

Private acts. Chap. I. An Act for reviving and amending the acts for allowing fairs to be kept in the Towns of Fredericksburg and Richmond.

II. An Act to empower the Vestry of the Parish of Southam, in the county of Goochland, to sell the Glebe Land in the said parish, and to purchase a more convenient Glebe in lieu thereof.

Ch. 7, 1748.

III. An Act for altering the Court days in Elizabeth City and Surry counties. Rep.

Private acts.

IV. An Act to enable the Sheriffs of the counties of Fairfax and Albemarle, to hold their Offices, for finishing the collection this present year.

- V. An Act for paying the Burgesses Wages
in Money, for this present Session of As-
sembly. .
-

Signed by Sir WILLIAM GOOCH,
Bart. Governor.
JOHN ROBINSON, Jun.
Speaker.

Sir W. Gooch,
Bart. Govern-
or.

AT A

General Assembly,

BEGUN AND HELD AT

*The College, in Williamsburg; the twenty seventh day of October, in the twenty second year of the reign of our sovereign lord George II. by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. and in the year of our Lord, 1748.**

CHAP. I.

[From edit.
1752. Same
law edit.
1769, pa. 142]

An Act for settling the Titles and Bounds of Lands, and for preventing unlawful Hunting and Ranging.

How & when
deeds for
lands, &c.
shall be ac-
knowledge^d,
or proved &
recorded.

I. BE it enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That no lands, tenements, or hereditaments, within this colony shall pass, alter, or change, from one to another, whereby an estate of inheritance in fee simple, fee tail, general or special, or any estate for life or lives, or any greater or higher estate, shall be made or take effect, in any person or persons, or any use thereof to be made, by bargain and sale, lease and release, deed of settlement to uses of feoffment, or other instrument, unless the same be made by writing, indented, sealed, and recorded, in the records of the general court, or in that county court, where the land mentioned, to be passed or granted shall lie, in manner following, that is to say: If the person or

Where,

* The acts passed at this session contained the revised laws, reported by the committee appointed by the act of 1745, chap. 4—They were first published in the edition of 1752, and afterwards, with very little variation in the matter, though differently arranged, in the edition of 1769. For a history of the several revisals of our laws, see preface to 1st. vol. Hen. Stat. at Large, pa. VI.

persons who shall make and seal such instrument of writing, shall be resident within this colony at the time of making and sealing the same, then the recording thereof shall be within eight months from the sealing and delivery; and if the person or persons so making and sealing, shall be resident in any other place than within this colony, at the time aforesaid, then the recording shall be within two years from the sealing and delivery: But no such deed or conveyance whatsoever, of lands, tenements, or hereditaments, shall be admitted, to record in the general court, or in any county court, unless the same be acknowledged in such court, by the grantor or grantors thereof in person, or by some or one of them, to be his, her, or their proper act and deed, or else that proof thereof be made, in open court, by the oath of three witnesses at the least.

II. And, that when any such deeds or conveyances shall be acknowledged or proved in court, in order to their being recorded, the livery of seisin thereupon made, in such cases where the same is by law required, shall in like manner be acknowledged, or proved, and shall be recorded together with the deed, or conveyance whereupon it shall be made.

III. And that all deeds, mortgages, and other settlements and conveyances, for any lands, tenements, or hereditaments within this dominion, *bona fide* made and executed, at any time before the third day of June, in the year of our lord one thousand seven hundred thirty five, whether the same be by deed poll, or otherwise, shall be good valid and binding between the parties thereto, and their heirs, notwithstanding the same have not been acknowledged, or proved and recorded.

IV. And, that all bargains, sales, and other conveyances whatsoever, of any lands, tenements, or hereditaments, whether they be made for passing any estate of freehold, or inheritance, or for term of years, and all deeds of settlement upon marriage, wherein either lands, slaves, money, or other personal thing, shall be settled or covenanted, to be left or paid at the death of the party, or otherwise, and all deeds of trust, and mortgages whatsoever, made and executed at any time after the said third day of June, one thousand seven hundred thirty five, and before the passing of this act, and all such deeds and conveyances, which shall hereafter

If the grantor resides here, the recording must be within 8 months. If not resident here, in two years.

Must be personally acknowledged in court or proved by 3 witnesses at least.

Livery of seisin to be recorded with the deed.

Deeds, mortgages, &c. executed before June 3, 1735, valid, tho' not recorded.

But all conveyances and settlements, after that time made or to be made, shall be void as to creditors, & subsequent purchasers if not recorded.

Yet binding
between the
parties.

Deed by hus-
band & wife,
acknowledg-
ed in court,
shall pass the
estate of the
feme, except
in fee tail.

Relinquish-
ment of dow-
er, hereto-
fore made,
and recorded
sufficient
without
deed in wri-
ting.

Commissions
to receive
the acknow-
ledgment of
any deed ex-
ecuted by a
feme covert,
how to be is-
sued and re-
turned.

And shall
pass her
right.

be made and executed, shall be void, as to all creditors, and subsequent purchasers, unless they have been, or shall be acknowledged, or proved and recorded, according to the directions of this act; but the same, as between the parties, and their heirs, shall nevertheless be valid and binding.

V. *And be it further enacted, by the authority aforesaid,* That all deeds, and conveyances heretofore made, or hereafter to be made, in writing, indented and sealed by husband and wife, and by them personally acknowledged, in the general court, or county court, the wife having first been examined by such court privily, and apart from her husband, and giving her free consent to the same, shall be and are hereby declared to be good and effectual in law, and shall be as valid to convey and pass over all the estate, right, title, interest, claim, and demand, of such wife and her heirs, in or to the lands, tenements, or hereditaments so granted or conveyed, whether the same be in right of dower, or fee simple, or whatsoever other estate, not being fee tail, she may have therein, as if the same had been done by fine and recovery, or by any other ways or means whatsoever; and that where any feme covert hath heretofore relinquished her right of dower, in lands or tenements, and acknowledged the same in court, or before commissioners, and such acknowledgment has been recorded, the same shall be sufficient and effectual in law, to convey and pass over all such right, altho' she has not executed and acknowledged any deed or conveyance for that purpose.

VI. And that where any feme covert cannot conveniently travel to the general court, or county court, to acknowledge her deed for passing away her estate, it shall be lawful for the clerk of the general court, or of any county court, to issue a commission to two or more commissioners, being justices of the peace in the country where such feme resides, for receiving the acknowledgment of any deed of such feme covert, for passing her estate in any lands, tenements, or hereditaments; and such deed acknowledged before them, after they shall have examined her privily, and apart from her husband, touching her consent and thereof certified, the judges before whom such commission shall be returnable, shall be recorded, together with the commission and return, and shall be as effectual as if the same

had been personally acknowledged in court, by such feme covert: And where any such deed shall have been heretofore acknowledged before commissioners, and they have certified the privy examination and acknowledgment as aforesaid, the same is hereby likewise declared to be valid, and so shall be adjudged, deemed, and taken. Such acknowledgment here- tofore made and certified valid.

VII. And whereas it has always been adjudged, that when any deed has been acknowledged by a feme covert, and no record made of her privy examination, such deed is not binding upon the feme or her heirs: But her privy examination must be recorded.

VIII. *It is hereby further enacted, and declared,* That the law herein shall always be held according to the said judgments; and shall never hereafter be questioned; and that the clerks of the courts before whom any deed of a feme covert shall be acknowledged, shall always hereafter record her privy examination.

IX. And to the end persons who are inclined to lend money upon the security of lands, negroes, and other estate, or to become purchasers thereof, may more easily discover whether the lands, slaves, or other things offered to be sold, or mortgaged, be free from prior incumbrances; For discovery of prior conveyances.

X. *Be it further enacted, by the authority aforesaid,* That a memorial of all bargains, sales, mortgages, and other conveyances, marriage settlements, and deeds of trust, whereby any estate, real or personal, of any person or persons whatsoever, within this colony, may be effected, charged, or incumbered, shall be registered in the secretary's office, in books kept for that purpose: Which memorial, shall contain the date of the deed, or conveyance, the names, surnames, and additions of the parties thereto, the consideration mentioned therein, the quantity of land conveyed, settled, or mortgaged, and where the same lies, and the number and names of the slaves, and description of the personal estate, if any be sold, settled, or mortgaged; and the clerks of all and every the county courts, within this dominion, are hereby required, twice in every year, that is to say, in the months of April and October, to transmit to the secretary's office, memorials, of all such deeds, settlements, mortgages, or other conveyances, as shall have been acknowledged, or proved and recorded in their respective courts, the preceding half year; and of all such of the said deeds as shall be A memorial of all deeds and settlements of any estate real or personal, shall be kept in the secretary's office.

County court clerks to return such memorials, half-yearly.

recorded in the General Court, the clerk of the secretary's office shall enter memorials in the register to be kept by him for that purpose.

XI. And whereas in times past several persons purchasing lands in this colony, have had their deeds and conveyances for the same acknowledged and recorded, but not within the time by the laws then in force required, and some persons have procured their deeds and conveyances, to be recorded in the courts of other counties than where the lands lie, and registred in the council books, and others have taken their deeds and conveyances, not indented nor sealed, or without any valuable consideration therein set down or expressed, and some have taken assignments of lands, only endorsed on the patents, and others have purchased lands and taken deeds for the same, which by the death of the grantor, or some other accident, have not been acknowledged in court, according to the strict letter of the law in that case heretofore made, but yet have been proved in court by the oath of two or more witnesses, and recorded, and others have purchased lands, and taken deeds and conveyances for the same, but without livery of seisin made thereupon in due form of law; by which several omissions and inadvertencies, many controversies might arise among his majesty's good subjects here, for prevention whereof,

Deeds for
lands executed
before
June 3, 1735
confirmed to
the parties
in possession
although not
regularly
proved or re-
corded.

XII. *Be it further enacted, by the authority aforesaid,* That all deeds and conveyances whatsoever, for any lands within this colony, heretofore acknowledged, and recorded, at any time before the third day of June, in the year of our Lord, one thousand seven hundred thirty five, or registred in the council books, or recorded in any other county than where the lands lie, shall be adjudged, deemed, and taken, and are hereby declared to be, to all intents and purposes, valid, and available in law, and shall enure and take effect, as fully and absolutely to the benefit and advantage of all persons in possession of any lands claimed thereby, and to their heirs and assigns, as if the same deeds had been legally recorded; and all deeds and conveyances for land, *bona fide* made and executed, before the said third day of June, altho' not indented or sealed, or without any valuable consideration therein expressed, and all assignments endorsed on patents, shall be adjudged, deemed, and taken, and are hereby declared to

be good and valid in law, and shall enure and take effect as fully and absolutely, to the benefit and advantage of all and every person and persons in possession of any lands claimed thereby, to his and their own proper use and behoof, and to his and their heirs and assigns, as if the same deeds and conveyances had been actually indented and sealed, and as if a valuable consideration had been therein particularly expressed, and as if such assignments had been made, and the lands therein mentioned conveyed in due form of law; and all deeds and conveyances for land, *bona fide* made and executed as aforesaid, and proved in court, by two or more credible witnesses, to have been the acts and deeds of the grantors thereof, and a record made of such proof, shall be and are hereby declared to be good and available in law, and shall enure and take effect as fully and absolutely, to the benefit and advantage of the person and persons in possession of any lands claimed thereby, to his and their own proper use and behoof, and to his and their heirs and assigns, as if the same deeds and conveyances had been personally acknowledged in court by the grantors thereof, and all deeds and conveyances for any lands, tenements, or hereditaments, within this colony, *bona fide* made and executed as aforesaid, and where livery of seisin might be requirable, if the party or parties to whom the same have been so conveyed, have actually entered thereupon, and they, or those who have their rights, do still continue in possession thereof, by virtue of such deeds and conveyances, the same shall be and are hereby declared to be firm and valid in law, and shall enure and take effect, as fully and absolutely to the benefit and advantage of all and every person and persons in possession of any lands claimed thereby, as if livery of seisin had been made in due form of law, and not otherwise: Any law, statute, or custom, in any of the cases aforesaid, to the contrary thereof, in any wise notwithstanding.

XIII. *Provided always*, That nothing herein contained shall extend or be construed so as to confirm any lands, tenements, or hereditaments whatsoever, to any other person or persons than those who have been, or now are, in actual possession thereof, and those who claim, or at any time hereafter shall claim, by, from or under them. Proviso.

No estate tail shall be defeasible, except only by act of Assembly.

XIV. *And be it further enacted, by the authority aforesaid,* That it shall not be lawful for any person or persons whatsoever, at any time to levy any fine, or to suffer any recovery to be had, whereby to cut off or defeat any estate in fee tail, general or special, of or in any lands, tenements, or hereditaments, within this colony, neither shall any such estate tail be cut off, or defeated, by any ways or means whatsoever, except only by act of the General Assembly of this dominion, for the time being, in such particular case respectively to be had and made: And all and every fine and fines, recovery and recoveries, and every other act and acts, thing and things, whatsoever, which shall be levied, made, suffered, done, performed, or executed, for and towards the cutting off, or defeating any estate tail whatsoever, except such as shall be found under the value herein after limited, otherwise than by act of Assembly as aforesaid, shall be adjudged, deemed, and taken, and are hereby declared to be null and void, to all intents and purposes.

XV. But forasmuch as many poor people are seised in fee-tail of small and inconsiderable parcels of land, often ignorantly or undesignedly by their ancestors devised in tail, and the docking such intails by easier methods will be a great relief to such persons, and their families, who otherwise must be confined to labour upon such small parcels of lands, when by selling them they might be enabled to purchase slaves, and other lands more improveable;

XVI. *Be it therefore further enacted, by the authority aforesaid,* That it shall and may be lawful to and for any person or persons, seised in fee-tail general or special, of or in any lands, tenements, or hereditaments, within this colony and dominion, not exceeding the value of two hundred pounds sterling, and not being parcel of, or contiguous to other intailed lands of the same party, to sue out from the secretary's office a writ in the nature of an *ad quod damnum*, to the sheriff of the county wheresuch intailed lands lie, commanding him to enquire, by the oath of good and lawful men of his county, of the value of such lands, and whether they be parcel of or contiguous to other intailed lands, as aforesaid; and the better to enable the jury to judge of the value of such lands, the surveyor of the county shall, in their presence, survey the bounds and

But where such estate shall not exceed the value of 200l, sterling, tenant in tail may have a writ of *ad quod damnum*.

give the jury an account of the number of acres contained in the said survey, and where the tenant in possession shall not, at the time of the survey, have issue capable of inheriting the said lands, and there be a remainder limited over, the person next in remainder, if of age, shall have notice of such survey, and if under age, the guardian, or next friend, that he may attend and see that the valuation is fairly made: And such sheriff shall return his inquisition to the said office: And if the said lands shall be found not to exceed the value aforesaid, and to be a separate parcel, as aforesaid, then a deed of bargain and sale, reciting the title, and such inquisition, wherein a valuable consideration shall be expressed, and *bona fide* paid, acknowledged, or proved by three witnesses, before the General Court, within eight months after the date thereof, and recorded, shall be sufficient in law to pass the fee simple estate of such lands to the purchaser or purchasers thereof; and the issue in tail of the vendor, and all other persons in remainder, or reversion, shall be barred, in the same manner as the same estate might be barred, by fine and recovery, according to the laws of England.

Method of
executing &
returning the
writ.

Heir in remainder may
attend the
survey.

And then
such estate
may be sold
to any purchaser in fee
simple.

Heir in reversion or remainder barred.

XVII. And that where any such deeds have been heretofore made and acknowledged, or proved in the General Court, according to the direction, true intent and meaning of the laws then in force, the same shall be sufficient in law to pass the fee simple estate of the lands thereby conveyed to the purchaser or purchasers, and to barr the intail thereof, in the same manner as if such laws had not been repealed or altered; and where such deeds have been acknowledged, or proved in the county court, and afterwards recorded in the General Court, the same shall be as good and available in law to pass the fee simple estate of the lands therein mentioned, as if the acknowledgment or proof had been made in the General Court: But no such deed of bargain and sale, hereafter to be made or executed, shall be admitted to record, unless the same be acknowledged or proved before the General Court, in the manner and within the time by this act required. And for the better avoiding of suits,

Confirmation
of deeds for
such lands
heretofore
made.

But all such
deeds hereafter must be
acknowledged, or proved,
and recorded in
the general
court.

XVIII. *Be it further enacted, by the authority aforesaid,* That all writs of formedon in descender, remainder, or reverter, of any lands, tenements, or hereditaments, Limitation
of actions
real,

ments whatsoever, hereafter to be brought upon any title or cause heretofore accrued, or which may hereafter fall or accrue, shall be sued out within twenty years next after such title or cause of action accrued, and not afterwards; and that no person or persons who now hath, or have, or hereafter may have, any right or title of entry into any lands, tenements, or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such person shall be barred from any entry afterwards.

Exception.

XIX. *Provided nevertheless,* That if any person or persons intituled to such writ or writs, or to such right or title of entry as aforesaid, shall be or were under the age of one and twenty years, feme-covert, *non compos mentis*, imprisoned, or not within this colony, at the time of such right or title accrued, or coming to them, every such person and his or her heirs shall and may, notwithstanding the said twenty years are or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards.

Rules in writs of right.

XX. *And be it further enacted, by the authority aforesaid,* That in all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seisin of his ancestor, or predecessor, within fifty years, or any other possessory action upon the possession or seisin of his or her ancestor, or predecessor, within forty years, next before the teste of the writ: But no person shall maintain a real action upon his own possession or seisin but within thirty years next before the teste of the writ.

And process in real actions.

XXI. And that the process in all real actions shall be the same as is used, and have the same effect as in England, except that the returns shall be according to the laws of this colony, but that all essoins, views, and vouchers be, and are hereby taken away; and after one imparlance, unless the tenant shall plead non-enure, joint-tenancy, or several tenancy, in abatement, and then after such plea shall be overruled, he shall put himself upon the grand assize, and the mise shall be joined upon the mere right, and be tried at the next court by sixteen jurors, to be summoned tried and sworn as in all other actions; and to remove all delays and groundless pretences, in saving the de-

fault of the tenant, no excuse shall be admitted but non summons, and such excuse being allowed, he may imparle, and at the next court shall either plead in abatement, or put himself upon the grand assize, as aforesaid.

XXII. And forasmuch as the rights and titles to lands within this colony originally depended upon, or are derived from patents granted for the same, to prevent all controversies concerning the validity of such patents, as have been formerly issued, but are not found among the records in the secretary's office, or not recorded, or for which no rights have been obtained in the manner prescribed by law.

XXIII. *Be it further enacted, by the authority aforesaid,* That all patents for any lands within this colony, granted before the first day of June, in the year of our lord one thousand seven hundred and ten, by the governor or commander in chief of this dominion, for the time being, shall be held, deemed and taken, and are hereby declared to be, to all intents constructions and purposes, as firm valid and available in law, to convey and assure the lands therein granted to such person and persons respectively, as the same shall have been granted unto, and to their heirs and assigns forever, as if such patents had been duly recorded, and as if the rights had been paid for the same.

Confirmation
of patents
granted be-
fore June 1,
1710.

XXIV. And that when any patent for land shall be passed, the secretary of this dominion, for the time being, shall cause the same to be recorded in his office.

Patents to be
recorded.

XXV. And whereas by a proviso in every patent for land the patentee is obliged, within three years next after the date of his patent, to seat plant and cultivate the lands so to him granted: For the better explanation thereof,

XXVI. *Be it further enacted, by the authority aforesaid,* That if upon any new survey of lands before granted to any person, a greater quantity of land shall be found within the bounds expressed in the patent, than therein is mentioned and set down, it shall be lawful for the proprietor and possessor of such land, for the time being, to sue forth a new patent for the same lands, wherein the just quantity of land shall be more exactly expressed, yet nevertheless such per-

Surplus land
shall be granted to the
patentee, or
his assigns.

But no new son shall not be obliged to any new seating, planting, seating re- or cultivation, notwithstanding such proviso in his new quired. patent.

Double pa- XXVII. And that where any person hath hereto-
tents confir- fore taken up any tract or parcel of land, adjoining to
med without other lands, in his or her possession, and shall have
new seating. obtained a patent for the same, commonly called a
double patent, wherein both tracts are joined, in such
case all such patents shall be and are hereby declared
to be good and available in law, to confirm the same
to such patentee, and those claiming under him or her,
being in possession thereof, and to his and her heirs
for ever, without any new seating or planting, notwith-
standing the proviso aforesaid.

Improve- XXVIII. And that if any person who now is or
ments on any hereafter shall be possessed of any tract of land which
part of a tract ought to be seated, planted, cultivated, and improved,
extend to the whole. according to the directions of this act, shall be desi-
rous to take up one or more tracts of land, adjoining,
and shall include all the said tracts in one patent, such
lands shall be accounted as one entire tract, and any
improvements which shall thereafter be made, accord-
ing to the directions of this act, on any part of the
said tracts, shall be held, deemed, and taken, to extend
towards saving of the whole, in proportion to such im-
provements made thereon.

Patentee fail- XXIX. And that where any person heretofore hath,
ing to pay, or hereafter shall obtain a patent, for any lands within
&c. or to pay this colony, and shall fail to seat and plant, or cultivate
the quitrents and improve the same, or to pay the quit-rents there-
as by this act of, according to the proviso and condition of his pa-
required, loses tent, and the particular directions of this act, every
his land, such patentee shall not only lose the land so to him or
and rights her granted, but shall also lose all benefit of the rights
also. upon which he or she obtained such patent.

Lands shall XXX. And be it further enacted, by the authority
not be lapsed aforesaid, That no patent shall be granted to any
'till 3 years person or persons for any tract or parcel of land, as
after the date lost and forfeited for want of seating and planting, or
of the patent for non payment of the quit rents, until three years
or 'till 3 years shall be expired, from and after the date of the patent
quit-rents granted for the same, or unless there shall be three
are arrear. years quit-rents in arrear, neither shall any patent be
Nor without granted by reason of such forfeiture, until judgment
judgment of and certificate thereof obtained from the General
the General Court.

Court, in manner following, that is to say: The party desiring such grant of forfeited lands, shall first petition the governor, or commander in chief of this dominion, for the time being, and in his petition shall set forth, in what county the land lies, to whom it was formerly granted, and in whose possession it then is, for what cause the same is become forfeited, and in what county the grantee, or person in possession, resides; and such petitioner shall at the same time file a copy of his petition in the secretary's office, and thereupon the clerk of the said office shall issue a writ, to the sheriff of the county where such grantee, or person in possession, resides, commanding him to summon the said person to appear at the next succeeding General Court, on a certain day thereof, to shew cause why the land petitioned for, and adjudged to be forfeited, for not seating and planting, or for non payment of quit-rents as the cause shall be, may not be granted to the petitioner: Which writ shall be served upon such grantee, or person in possession, by the sheriff or under sheriff of the county where he or she resides, who shall make due return thereof: And if such person be not resident within this colony, then such writ shall be served upon his or her attorney lawfully appointed; and if no such attorney can be found, then a copy of such writ shall be affixed at the door of the court house of the county where the land lies, on five several court days, and also in the court house of the General Court, at three successive courts, and thereafter such proceedings shall be had as if such party had been personally summoned; and where such writ shall be returned, served, if the party summoned, or his attorney, shall not appear, and make sufficient proof, that the land petitioned for, hath been seated and planted, or that the quit-rents thereof, have been duly paid, as the case shall require, then the General Court shall adjudge such lands to be forfeited, and re-vested in the crown, and shall cause judgment to be entered accordingly, and certify the same to the governor, or commander in chief of this dominion for the time being; and also, that the party prosecuting was the first petitioner for the said land, and hath prosecuted his petition with effect: Which certificate shall intitle him to the land so adjudged and certified to be forfeited, in the same manner, and subject to the same

Method of
petitioning
for lapsed
land.

Summons.

Where the
party resides
here.

Where not
resident in
this colony.

Return of
summons.

Judgment.

Surplus land. conditions and provisos, as lands not before patented are subject to: And if there shall happen to be a greater quantity of such forfeited land, than shall be granted to such petitioner, the residue thereof shall be granted to such person or persons as shall petition for the same, in the manner, and subject to the conditions and provisos aforesaid.

Lands saved before petition exhibited, remain to the patentee. XXXI. *Provided always*, That if upon trial it shall appear, that the lands so petitioned for, have been seated and planted, at any time before such petition exhibited, tho' not within three years as aforesaid, the same shall be adjudged, and is hereby declared to be a sufficient seating and planting within the meaning of this act; and that when any such petition, as aforesaid, shall be exhibited, the patentee, or party in possession, shall and may reserve to himself so much of the land petitioned for, as shall be proved to have been seated and cultivated according to the directions of this act, and may allot the residue, which shall be found and adjudged to be lapsed, to the petitioner for the same, in any part of the tract in one entire piece.

Who may allot the lapsed part, in one piece of his tract, where he thinks fit.

XXXII. And to the end the lands of infants may be secured to them from being forfeited, for not seating and planting, or not paying quit-rents:

Provisions for securing the lands of infants. XXXIII. *Be it further enacted, by the authority aforesaid*, That where any patentee shall depart this life within three years of the date of his patent, without seating, planting, or paying quit-rents, and the right of inheritance shall descend or come to any infant, under the age of one and twenty years, in such case, the sheriff of the county wherein such lands shall lie, may distrain the slaves goods and chattels of such infant, for all quit-rents due from time to time, and if no such distress can be made, or if the lands shall not be seated and planted, yet the same shall not be forfeited, until three years after such infant hath attained his or her full age: But the seating and planting such lands, and paying the quit-rents arrear and due for the same, within the said three years, shall be adjudged and is hereby declared to be sufficient to save such lands from being lapsed and forfeited.

And persons not resident in this colony. XXXIV. And that where any patentee shall die within three years as aforesaid, and the right of inheritance shall descend or come to any person not being

then resident within this colony, such person shall not be liable to any forfeiture for not seating and planting, or for non-payment of quit-rents, until the expiration of three years after his or her right accrued.

XXXV. And for preventing disputes and controversies concerning lands, alledged to be lapsed for want of seating and planting, which cannot be determined without great difficulty, unless the matter of right be contested within a reasonable time, but otherwise must be of evil consequence to many people and their families, who have been long, and yet are, in quiet and peaceable possession of their lands, but nevertheless may not be able to produce legal evidence of the cultivations and improvements, made by their ancestors or predecessors;

XXXVI. *Be it therefore further enacted, by the authority aforesaid,* That after the passing of this act, no petition shall be received, or allowed, for lands supposed to be lapsed, for want of cultivation and improvement, if the same be not exhibited within ten years next after the date of the patent granted for the land, in such petition alledged to be lapsed or forfeited; and that where no petition shall be exhibited within that time, the patentee, and those claiming under him, shall for ever afterwards be held and adjudged to have made a sufficient seating, planting, cultivation, and improvement, to save such land from lapsing.

Petitions for lapsed land shall be brought within ten years.

XXXVII. And whereas several persons have sued out and obtained patents for swamps, marshes, and sunken grounds, adjacent to the patented highlands of other persons, and without their consent or privacy, to the great prejudice and inconvenience of the owners of such highlands; for remedy thereof for the future:

XXXVIII. *Be it further enacted, by the authority aforesaid,* That no person whatsoever shall take up and patent any swamps, marshes, or sunken grounds, lying contiguous to the patented highlands of any other person or persons, unless the party intending to take up and patent the same, shall first, in the presence of two or more witnesses, have given notice of such his intention, to the proprietors for the time being then in possession of such highland, particularly specifying the lands intended to be taken up, and until one

Rules in suing forth patents for swamps, marshes, and sunken grounds.

Patents for such, obtained since October 25, 1710, contrary to this act void.

Notice may be controverted within five years, but not after.

Saving to infants, and persons under legal incapacities.

Rules in entries for surplus lands.

whole year shall be fully expired, from and after the time of such notice given: And if within that time, the proprietor then in possession shall not obtain rights, and sue forth a patent for such lands, then it shall be lawful for the person or persons, who have given such notice, his, her or their heirs and assigns, to take up and patent the same; in which patent shall be particularly expressed, whether the lands thereby granted are swamps, marshes, or sunken grounds, and to whose highlands they are adjoining: And all and every patent and patents, for such lands, heretofore obtained at any time, since the twenty fifth day of October, in the year of our Lord, one thousand seven hundred and ten, or which, at any time hereafter, shall be sued forth or obtained, contrary to the directions of this act, shall be, and is, and are hereby declared to be null and void, to all intents and purposes, as if such patent or patents had never been obtained or granted. And if any controversy concerning such notice, as aforesaid, shall arise within five years after the same ought to have been given, the *onus probandi* shall lie upon the person who ought to have given notice; but where no such controversy hath arisen, or shall arise within that time, five years possession shall be held and taken as sufficient proof that due notice has been given.

XXXIX. *Provided always*, That nothing in this act, shall be construed, or extend, to give liberty to any person or persons to take up and patent any swamps, marshes, or sunken grounds, lying contiguous to the highlands of any feme covert, or infant, under the age of one and twenty years, or of any person not being *compos mentis*, under pretence, or by virtue of notice being given, as aforesaid, either to such feme, infant, person *non compos mentis*, or to the husband, guardian, or other person then in possession thereof.

XL. And whereas, thro' the ignorance or negligence of surveyors in former times, divers persons have held or hold, within the bounds in their patents expressed, greater quantities of land, than are mentioned in their patents, or deeds, and for which they pay no quit-rents; for quieting such possessions and preventing controversies:

XLI. *Be it further enacted, by the authority aforesaid*, That it shall not be lawful for any person to en-

ter for any parcel of land, held of the crown, for or by reason of its being surplus land, until the party intending to take up and patent the same, shall have given notice to the person holding such lands, in the like manner, as is herein before directed for swamps, marshes, and sunken grounds, and until one whole year shall be fully expired, from and after such notice given; and in case the party in possession, shall not within the year, obtain rights, and sue forth a patent for the surplus land by him held, it shall be lawful for the person who gave notice, as aforesaid, to survey, at his own charge, the whole tract within the bounds of the patent, deed, or other conveyance, whereby the same is, or shall be held, and thereupon to sue forth a new patent, for all surplus land found within the same bounds, which shall be granted to him in the same manner, and under the like limitations and conditions, as lands not before patented: But the patentee or possessor may assign such surplus land, in any part of his tract as he shall think fit, in one entire piece.

XLII. *Provided always,* That if upon notice given as aforesaid, the person in possession shall within the year survey his tract, and it be thereupon found, that he hath no more land than he pays quit rents for, the party giving such notice shall be liable to pay all charges of such survey; and moreover, for his unjust vexation, shall also be liable to an action upon the case, at the suit of the party grieved; and that in all such new surveys, the patentee or possessor shall have an allowance, at the rate of five acres in every hundred, for the variation of instruments.

Proviso:

Five per cent. allowance for variation of instruments.

XLIII. *Provided also,* That where such notice shall be given to any person, being tenant in tail, or tenant by the curtesy of England, of and in any tract of land where surplus is alledged to be, such tenant shall, within the year survey the same, and give an account to the sheriff of the county wherein such tract shall lie, of the true quantity of surplus land found therein, and thereafter pay the quit-rents becoming due for the same; which survey, and payment of quit-rents, shall be good and effectual to secure the surplus to such tenant, and those claiming in reversion or remainder, without suing forth any new patent for the same, neither shall any patent be granted to any person petiti-

Privilege of tenant in tail or by the curtesy.

Penalty if he fails to pursue the directions of this act.

oning for such surplus land; but if upon notice given, as aforesaid such tenant shall neglect or refuse, within one year then next to survey, and give account of the surplus, if any be, to the sheriff as aforesaid, such tenant shall, for every such neglect or refusal, forfeit and pay twenty pounds current money, one moiety to our sovereign lord the king, his heirs and successors, and the other moiety to the informer, to be recovered with costs, by action of debt, or information, in any court of record of this dominion: And where, in case of survey so made, it shall appear, that such tenant holds no more land than he already pays quit-rents for, the party giving notice shall be liable as aforesaid.

His goods and chattels liable for the quit-rents.

XLIV. And that every tenant in tail, or by the curtesy, shall from time to time, be liable for the quit-rents of all lands by him or her respectively held, which may be levied upon the personal estate of such tenant, in any county of this colony, in the same manner as the law directs his majesty's quit-rents to be collected, levied and paid.

Rules in seating and saving lands.

XLV. And for the better explaining and ascertaining what shall be a sufficient seating, cultivation, and improvement, to save lands from becoming lapsed or forfeited.

How and by whom surveys shall be made.

XLVI. *It is hereby further enacted, and declared, That every survey of lands intended to be patented, shall be made and returned by a sworn surveyor, duly commissioned for that purpose, and that the breadth of every tract so to be surveyed, shall be one third at least, in proportion to the length thereof, except where the courses shall be interrupted by rivers, creeks, or unpassable mountains and swamps, or by the bounds of other lands before taken up or patented.*

Clearing, tending, and working the land.
Draining marshes, &c.
Keeping stocks.

XLVII. And that for every fifty acres of land, which shall be granted in or by any patent, hereafter to be issued, the patentee shall, within three years after the date of his patent, clear, tend, and work three acres, at the least, and so proportionably for a greater or less quantity, in some part of his tract where he shall think best; or shall clear and drain three acres of swamp or sunken grounds or marsh, if any such be within the bounds of his tract; or he shall put and keep on his tract, within the time aforesaid, three neat

cattle, or six sheep or goats, for every fifty acres, during the term of three years.

XLVIII. And that if any patentee or proprietor shall, within three years, as aforesaid, begin to work in digging any stone quarry, coal, or other mine, upon his tract, and continue the same for three years then next following, he shall, for every able person so employed, save one hundred acres. Working mines.

XLIX. And that for every three acres well fenced and cleared, which shall be kept and used for a pasture, during the term of three years, the patentee shall save fifty acres. Pastures cleared and fenced.

L. And that where the patentee or proprietor of any lands shall, within three years as aforesaid, expend any sum or sums of money, or tobacco, in building houses, water-mills, or other works, or in planting trees, or quick-set hedges, or making any other improvements, for every five pounds current money, or the value thereof, so expended, he shall save fifty acres, and so proportionably for a greater or lesser sum. Buildings, planting fruit-trees & other improvements.

LI. And that, for preventing controversies touching the value of such buildings, or other improvements, it shall be lawful for the court of the county where such lands shall lie, and they are hereby authorised and required, upon application to them made by the patentee or proprietor, or his or her agent, to order such buildings and improvements, to be viewed by two or more honest and indifferent men who shall be first sworn before a justice of peace, truly to value the same according to the best of their judgment, having regard to such accounts of the expences as shall be to them produced, and reasonably proved upon oath, or otherwise: Which valuation so made, shall be returned to the said court, and recorded in particular books for that purpose, and shall be adjudged, deemed, and taken to be sufficient proof of the value of such improvements: And in case a petition shall be preferred before such valuation made, the General Court may order the same to be done in manner aforesaid. Valuation of improvements.

LII. *Provided nevertheless,* That in every such case the several kinds of buildings and improvements shall be specially mentioned, and that before such valuation shall be admitted to record, the proprietor or his or Proviso.

her agent, or attorney, shall make oath in court, that none of the said buildings, works, or improvements, have been before valued and recorded, in order to the saving any of the said lands.

Cultivations & improvements once made, according to this act, shall for ever save lands from lapsing.

LIII. *And be it further enacted, by the authority aforesaid,* That all and every the cultivations and improvements, herein before particularly specified and expressed, which heretofore have been, or hereafter shall be made, upon any patented lands, within the time in each patent respectively limited, or before petition shall be preferred, for obtaining a grant thereof, as lapsed, shall enure to the benefit of the person making the same, and shall be accounted a sufficient seating, planting, cultivation, and improvement, to save for ever from lapsing, so much of every tract respectively, in any part thereof, and in proportion to the extent or value of the several cultivations and improvements, as shall appear to have been made thereon, in the manner by this act directed and declared: And that no lands so saved shall, at any time afterwards be liable to be forfeited, for not complying with the condition of cultivation and improvement, mentioned in the grants thereof; but the patentee, his heirs and assigns, shall at all times thereafter be at liberty to withdraw his stock, and to forbear working on such lands, if he or they think fit.

Bounds of lands to be processioned every fourth year, beginning in 1751. Duty of county courts.

LIV. And for preventing controversies concerning the bounds of lands, *Be it further enacted, by the authority aforesaid,* That once in every four years the bounds of every person's land shall be processioned, or gone round, and the land marks renewed, in manner following, that is to say, the court of every county, at some court between the first day of June, and the first day of September, which shall be in the year of our lord one thousand seven hundred and fifty one, and so between the first day of June, and the first day of September, in every fourth year thereafter, by order of court, shall direct the vestry of each parish within their county respectively, to divide their parishes into so many precincts, as to them shall seem most convenient for processioning every particular person's land in their respective parishes, and to appoint the particular times, between the last day of September and the last day of March then next coming, when such processioning shall be made in every precinct; and also

to appoint two or more intelligent honest freeholders of every precinct, to see such processioning performed, and to take and return to the vestry an account of every persons land they shall procession, and of the persons present at the same, and what lands in their precincts they shall fail to procession, and the particular reasons of such failure: a copy of which order shall be delivered by the clerk of every court respectively, to the church wardens of every parish within his county, within fifteen days after the making thereof; and the church wardens shall cause a vestry to be summoned, to meet within one month after the receipt of such order, at which vestry the same shall be exactly and punctually obeyed in every particular; and thereupon notice shall be given by the churchwardens, at their parish church, at least three Sundays next before the same is to be performed, of the persons and times so appointed by the vestry, for processioning in every several precinct, as aforesaid, and the vestry shall also cause the accounts returned by the freeholders, as aforesaid, to be registred in particular books to be kept for that purpose, by the clerk of the vestry; and to prevent mistakes or omissions in any such register, the churchwardens shall examine the same, in presence of the vestry, and compare the register with the original returns, at the next vestry that shall be held after such return made, from time to time, and shall certify the same under their hands in every register so by them examined and compared: And that no person may pretend ignorance, the vestries are also to direct what precinct or precincts in their parish respectively every particular freeholder thereof shall attend, and perform the processioning as aforesaid: And where any parish shall lie in several counties, the order of each county court shall be delivered, as aforesaid, to the churchwardens of such parish, and shall also be obeyed by the vestry in manner before directed: And if any county court shall, at any time hereafter, fail to make such order, as aforesaid, every justice of the peace of such county shall forfeit and pay one thousand pounds of tobacco; and if any vestry shall fail to obey and execute such order, every member of such vestry shall forfeit and pay two hundred pounds of tobacco, and every church warden failing in his duty by this act required, shall forfeit and

Churchwardens.

Vestries:

Penalties on failure by the court.

Vestry.

Churchwardens.

Clerk of the court. pay five hundred pounds of tobacco; and if any county court clerk shall fail in his duty, as aforesaid, he shall forfeit and pay one thousand pounds of tobacco: One moiety of which several forfeitures shall be to our sovereign lord the king, his heirs and successors, for and towards the better support of this government and the contingent charges thereof, and the other moiety to the informer; to be recovered with costs, by action of debt or information in any court of record wherein such forfeiture shall be cognizable; and if any other person, not having lawful excuse, shall fail to perform his duty as is herein before required, every person so failing shall forfeit and pay five hundred pounds of tobacco; to be recovered with costs, by the churchwarden or churchwardens of the parish wherein such failure shall be, by action of debt or information, in any county court, and applied towards purchasing ornaments for the church of such parish.

Penalty on the persons appointed to procession.

How recoverable.

But just cause of absence, or disability, may be pleaded in bar.

LV. *Provided always*, That in any suit or information brought against a justice of peace, vestryman, or churchwarden, for any breach of this act, where the defendant shall give sufficient evidence to the court, where such suit or information shall be depending, that he was necessarily absent, or that being present, he offered to do his duty pursuant to this act, in such case the suit or information, as to such defendant, shall be dismissed.

'Bounds processioned 3 times, shall never be altered.

LVI. *And be it further enacted, by the authority aforesaid*. That all and every processioning the bounds of any persons land, at three several times heretofore made according to the directions of the laws then in force, or hereafter to be made pursuant to this present act, shall be held, and is hereby declared to be, sufficient to settle such bounds, so as the same may never afterwards be altered; and that every processioning, made in pursuance of the said former laws. in manner thereby prescribed, shall be held, and is hereby declared to be one of the three times of processioning by this act held to be sufficient.

Former processions confirm'd.

Rules in controversies about bounds, where persons refuse to

LVII. And for preventing the inconvenience and damage which may arise by any persons refusing to suffer their lands to be processioned.

LVIII. *Be it further enacted, by the authority aforesaid*, That when any controversy shall hereafter happen between persons whose lands lie contiguous,

about their respective bounds, and the owner or owners of such lands shall refuse to suffer the same to be processioned, in such case the freeholders appointed as aforesaid, shall within ten days after such refusal, certify the same under their hands, to the churchwardens of the parish wherein such lands shall lie, who shall return such certificate to the court from which the order for processioning issued, at their next sitting, and such court shall thereupon order their surveyor, with a jury, to lay out the bounds in dispute, at the charge of the party against whom the right to such bounds shall be determined, and to return such survey to the next court after the same shall be made, which return shall be recorded, and a copy thereof sent by the county court clerk, within fifteen days after such return, to the churchwardens of the parish where the lands lie, and shall be by them caused to be registred, in the vestry book of their parish.

suffer their
lands to be
processioned.

LIX. And that if such lands shall happen to lie in two or more counties, then certificate as aforesaid shall be returned to the court of each of the said counties, and the court of that county in which the beginning of such controverted bounds shall lie, shall order their surveyor, with a jury of their county, to survey the whole bounds in dispute, and the sheriff of each county wherein the same shall lie, to attend the surveyor, in their respective counties; and such survey shall be made, returned, recorded, and registred, in the manner and at the charge of the party aforesaid; and that all and every survey and surveys, so as aforesaid made and registred, shall be held, deemed, and taken to be a sufficient processioning of such lands, to all intents and purposes, as if the same had been done by and with the consent of the owner thereof.

Where the
lands lie in
two or more
counties.

LX. And that every justice of peace, churchwarden, county court clerk, or other person, failing in his duty, as herein before required, and not having lawful excuse shall be liable to forfeit and pay the respective penalties herein before mentioned and laid on them, or any of them; to be recovered in the manner and to the uses aforesaid.

Penalties.

LXI. *Provided always*, That the processioning and settlement of the bounds of lands, held by any tenant for life only, shall not bar or conclude the heir in re-

Heir in re-
version or re-
mainder, may
within six
years after

the death of tenant for life, controvert the bounds.

And also persons under legal disabilities.

Penalties for unlawful hunting, fishing, or fowling.

20s. for every offence to the informer.

What shall be good evidence.

Where the owner of the land prosecutes, his oath shall convict the offender, but the penalty shall be to the parish.

The offender also liable to action at the common law. Upon a third conviction, the offender, besides paying the penalty, shall be bound to the behaviour. Or committed.

Conviction of such offence, after security

version, or remainder, but such heir may at any time, within six years after the death of such tenant, controvert the bounds, as if no processioning or settlement had been made.

LXII. And that the processioning & settling the bounds of lands belonging to any person then being within the age of one and twenty years, feme covert, *non compos mentis*, imprisoned, or not resident within this colony, shall not be conclusive to such person or persons, until six years after their respective incapacities or disabilities shall be removed or determined.

LXIII. And be it further enacted, by the authority aforesaid, That if any person or persons shall at any time shoot, hunt, or range, upon the lands or tenements, or fish, or fowl, in any creeks or waters, included within the bounds of any other person or persons, without licence first obtained of the owner of such lands, every such offender shall forfeit and pay twenty shillings for every such offence; to be recovered with costs before any justice of peace of the county where the offence shall be committed, by the informer to his own use; in which information the confession of the party accused, or the oath of one credible witness, shall be sufficient evidence; and where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing, or fowling within his bounds, the oath of such owner shall be sufficient evidence to convict the offender: but in that case the penalty shall be paid to the churchwardens of the parish wherein the offender resides, to the use of their parish; and moreover every such offender shall be liable to the action of the party grieved, at the common law, for his or her damages.

LXIV. And that if any person shall be the third time convicted of any such offence, as aforesaid, the justice of peace before whom such conviction shall be, over and above, giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to our sovereign lord the king, his heirs and successors, in the penalty of ten pounds current money, for his good behaviour, during one whole year from thence next following, or in case of refusal so to do, shall commit him to the common goal, there to remain until he give such security, or until the expiration of one month,

and if after such surety given, such offender shall be given, shall convicted of shooting, hunting, ranging, fishing, or be a breach of the behaviour. fowling, unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be a breach of the good behaviour, and the penalty of his recognizance shall be forfeited, to the king, for the use of the parish wherein such conviction shall be.

LXV. And that whosoever shall use any fire-hunting, or the killing of any deer by such means, every person present at such fire-hunting, shall forfeit and pay twenty shillings for every such offence, to the informer; to be recovered in the like manner, and upon such evidence, and to the same use or uses, as the before recited offences of unlawful shooting, hunting, ranging, fishing, or fowling, are directed to be recovered and applied: And if any Indian be found fire-hunting, as aforesaid, it shall be lawful for the owner of the land where he shall be so found, or his or her overseer, to seise and take away the gun of such Indian, and the same to keep to his own use. Every person present at any fire hunting forfeits 20s. If an Indian, his gun may be seised.

LXVI. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this act, shall be and are hereby repealed. Repealing clause.

Provided always, That the execution of this act shall be suspended, until his majesty's approbation thereof first had and obtained. This act suspended 'til approved by his majesty.

CHAP. II.

[From edition 1752.]

*An act declaring slaves to be personal estate, and for other purposes therein mentioned.**

Preamble.

I. **W**HEREAS one act of Assembly was made in the fourth year of the late queen Anne, intituled

Representation against the repeal of certain laws.

☞ See the proclamation at the end of this volume, p. 559.

* This act, together with nine others, which were passed among the revised laws, in 1748, was repealed by the king's proclamation of the 31st of October, 1751. The repeal of those acts not having been communicated to the General Assembly until the 8th of April, 1752, (*See M. S. Journal of Council, pa. 69.*) they were printed, as enacted in the edition of 1752, and a list of them published at the end of that edition. The printing of the revised laws of 1748, had probably too far progressed before a notification of the repeal of these ten acts was received, to make it practicable to omit them, in their proper places.

In a *manuscript* journal of the Council which has been preserved, the proceedings of the governor and council in their legislative capacity, and of the house of burgesses, on this interesting subject, together with a representation to the king, by a joint committee of the council and burgesses, are given at large.—As this document exhibits, in very strong terms the feelings of the legislature, on receiving information of the repeal of these laws, and their views of the king's prerogative, in relation to that point, as well as the *reasons* which induced the passing of them, it is deemed important to insert it in this place.

Wednesday April 15th, 1752.

The committee reported that they, in conjunction with those appointed by the house of burgesses, had drawn up an address and representation to his majesty, which were read and agreed to, and are as follow:

To the King's most excellent majesty.

The humble address and representation of the council, and burgesses, of this your majesty's antient colony, and dominion of Virginia, now met in general assembly,
Sheweth,

That pursuant to the constitution of this colony, as established by your majesty's royal predeces-

led, An act declaring the negro, mulatto, and indian slaves, within this dominion to the real estate, which was afterwards explained by one other act passed in

Ch. 23, 1705.

sors, your majesty was graciously pleased by your commission under your great seal, appointing the right honorable William Ann Earl of Albemarle to be your lieutenant and governor general of this your colony and dominion of Virginia, "To give and grant unto him the said William Ann Earl of Albemarle full power and authority with the advice and consent of the council, from time to time as need shall require, to summon and call General Assemblies of the freeholders and planters within this said government, according to the usage of the colony and dominion of Virginia, and to declare your royal will and pleasure that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places, and so returned, shall before their sitting take the oaths mentioned in the act intituled An act for the further security of his majesty's person and government and the succession of the crown in the heirs of the late princess Sophia, being protestants, and for extinguishing the hopes of the pretended prince of Wales and his open and secret abettors, as also make and subscribe the Declaration." "And also to give power and authority to the said William Earl of Albemarle with the consent of the Council and Assembly, or the major part of them respectively, to make, constitute and ordain Statutes and Ordinances for the public peace, welfare and good government of the said colony, and the people and inhabitants thereof; and such others as shall thereto resort, and for the benefit of your majesty, your heirs and successors, which said laws, statutes and ordinances are not to be repugnant to, but as near as may be agreeable to the laws and statutes of the kingdom of Great Britain: Provided that all such laws, statutes and ordinances, of what nature or duration soever, be within three months or sooner after the making thereof transmitted unto your majesty under your seal of Virginia, for your majesty's approbation or disallowance of the same, as also duplicates thereof by the next conveyance, and in case any or all of the said laws, statutes and ordinances not before con-

Representa-
tion against
the repeal of
certain laws:

the first year of his present majesty's reign, intituled,
 ch. 11. 1727. and act to explain and amend the act, for declaring the
 negro, mulatto, and indian slaves within this domini-

Representa-
 tion against
 the repeal of
 certain laws.
 firmed by your majesty, shall at any time be disallow-
 ed and not approved, and so signified by your majesty
 your heirs or successors under your or their Sign Ma-
 nual and Signet, or by order of your privy council, un-
 to him the said William Ann Earl of Albemarle, or to
 the commander in chief of the said colony for the time
 being, then such and so many of the said laws, statutes
 and ordinances as shall be disallowed and not approv-
 ed, shall from thenceforth cease, determine and be-
 come utterly void and of none effect."

And whereas the lieutenant governor, council and
 burgesses of this your majesty's colony, taking into
 consideration that many of the laws and statutes had
 of late years been either intirely or in part repealed,
 and others of them expired, altered, amended or ex-
 plained, from whence great mistakes and inconveni-
 ences had arisen, for preventing whereof for the fu-
 ture, a committee of the council and Assembly of this
 colony was appointed to revise, alter, or amend all or
 any of the said laws and statutes, and reduce the same
 into bills, to be reported to the next meeting of the
 General Assembly, which service was performed by
 virtue of the power so given to the said committee.

That the said laws so revised, alter'd or amended,
 or so many of them as were approved and enacted by
 the lieutenant governor, council and burgesses, were,
 pursuant to your majesty's instructions and royal com-
 mand to your governor, transmitted for your majesty's
 approbation or disallowance of the same. Ten of
 which laws your majesty was pleased, by your order
 in your privy council under your Sign Manual, bearing
 date at St. James's, October 31, 1751, to repeal and
 declare void and of none effect.

And whereas your majesty has been pleased by your
 royal instruction to your governor or commander in
 chief to direct that "no law shall be reenacted in this
 colony to which the assent of your majesty or your
 royal predecessor hath once been refused, without ex-
 press leave for that purpose first obtained, upon a full
 representation to your majesty, and to your commis-
 sioners for trade and plantations, of the reason and

on, to be real estate, and part of one other act, intituled, Ch. 33, 1705. an act for the distribution of intestate estates, declaring widows rights to their deceased husbands estates,

necessity for passing such law." We, therefore, maturely deliberating thereon, and conceiving some of the said repealed laws to be of great utility and well calculated to promote the public peace, welfare and good government of this colony, and not repugnant to the laws and statutes of Great-Britain, do in all humility, beg leave, pursuant to your majesty's last mentioned instruction, to represent to your majesty the reasons and necessity upon which they were passed; which reasons are transmitted with this our humble address and representation. And we intreat your majesty, that, having taken the same into your royal consideration, you will be graciously pleased to grant your permission, that the same or so many of the said repealed laws, as to your majesty, in your great wisdom, shall seem expedient, may be reenacted, and that you will give instructions to your governor or commander in chief, for the time being, accordingly.

Representation against the repeal of certain laws.

That, as we conceive, according to the antient constitution and usage of this colony, all laws enacted here for the public peace, welfare and good government thereof, and not repugnant to the laws and statutes of Great Britain, have always been taken and held to be in full force, until your majesty's disallowance thereof is notified here, and that the same may be revised, alter'd and amended, from time to time, as our exigencies may require. But that when a law enacted here hath once received your majesty's approbation, and hath been confirmed, finally enacted, and ratified, the same cannot by the legislature here be revised, altered or amended, without a clause therein to suspend the execution thereof 'til your majesty's pleasure shall be known therein, even tho' our necessities for an immediate revisal, alteration or amendment, be ever so pressing.

We cannot, therefore, but express our deep concern at your majesty's having in such solemn manner confirmed and ratified fifty seven of the 'forementioned revised acts, that we apprehend we have not full power now to revise alter or amend the same, without such suspending clause, which if understood in a strict

and for securing orphans estates; which acts having been found inconvenient, and not to answer the ends thereby intended.

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certain laws.

sense, will subject us to great hardships and inconveniences, since it is not within the reach of human foresight to form any laws but what may, from experience, be found to want necessary and sometimes speedy amendments.

Wherefore we pray your majesty will be graciously pleased to take this our unhappy case into your serious consideration, and that you will signify to your lieutenant governor that it was not your royal intention to fix those confirmed laws so unalterably upon us, but that the same may be altered or amended from time to time as the circumstances of this country may require, for the public peace, welfare and good government thereof, and provided the same shall not be repugnant to the laws and statutes of Great-Britain; always having a due regard not to enact any laws to take effect immediately that your majesty hath instructed your governor or commander in chief not to pass without a suspending clause 'till your royal assent may be had thereto.

Our gratitude will not suffer us to conclude this our humble address and representation, without acknowledging a just sense of your majesty's wisdom in repealing certain of our revised laws, which upon our further consideration, occasioned by your majesty's order in council aforesaid, we are convinced were, by some omissions, not fitly framed, fully to answer the purposes for which they were intended.

And we pray that the same Divine Providence which hath hitherto continued your majesty a blessing to all your good subjects, may preserve your majesty in the peaceable enjoyment of your Throne to a fullness of days; when you may willingly resign the same to your illustrious off-spring, to whom the same duty, loyalty, and obedience, will ever be paid by your faithful people of Virginia.

An Act for allowing Fairs to be kept in the town of Suffolk and preventing Hogs and Goats going at large therein, and for altering the times of holding Fairs in the town of Newcastle.

II. *Be it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the* Repeal of the recited acts.

An Act for establishing a town in Augusta county, and allowing Fairs to be kept therein.

These acts are agreeable to others passed in former Assemblies, and their preambles shew their utility and design. The small number of inhabitants, and the want of persons properly qualified to constitute a corporation, is the reason that your majesty's lieutenant governor hath not granted these towns a charter. Representation against the repeal of certain laws.

To assess a toll on the commodities brought to these fairs would frustrate the intents of the acts. Neither do the people desire a court of piepowder; their monthly county courts, and the authority allowed your majesty's justices of the peace being sufficient to determine their differences. Nor would your General Assembly of this colony have presumed to enact these laws without inserting a proviso that nothing therein contained should derogate from, alter, or infringe your royal power of granting to any person or persons, bodies politic or corporate, the privilege of holding fairs in such manner as your majesty, your heirs and successors, should think fit; well knowing how unbecoming it would be in them to presume to act contrary to your majesty's royal prerogative, which has ever been esteemed equally dear, sacred, and inviolable with their own rights and liberties.

An Act to prevent the building of Wooden Chimnies in the town of Walkerton, and also to prevent the inhabitants thereof from raising and keeping Hogs.

Acts of this nature have been passed every session of Assembly of late years, to some of which your majesty hath been graciously pleased to assent. But what chiefly induced your Assembly to pass this act, was the preservation of the public warehouses for the reception of tobacco in this town from the danger of Fire.

An Act for the better support of the College of William and Mary.

By this act the acts of the fourth of queen Anne, intituled, An act for laying an imposition upon skins and furs, for the better support of the college of William and Mary, in Virginia; and the Act for the better

same, That the said two recited acts and every clause and article thereof, shall be, and are hereby repealed and made void, to all intents and purposes, as if the same

Representa-
tion against
the repeal of
certain laws.

support and encouragement of the college of William and Mary, in Virginia, made in the eighth year of your majesty's reign, (to which last act your majesty was pleased to give your royal assent,) were reduced into one act, and re-enacted in substance, with no other alteration than the increasing the duty upon every raw hide, from three pence to six pence, and repealing the act made in the eighteenth year of your majesty's reign, for amending the first of these two acts, which laid an additional duty of two shillings and six pence on every raw hide, and five shillings on every tanned hide exported.

The inducement your assembly had for this alteration was to collect separate laws relating to the same subject into one act, and for the benefit and support of the college, the only public seminary of learning in this colony, always favoured by your majesty and your royal predecessors, and encouraged by your Assemblies here. Raw hides are exported from hence in greater abundance than tanned. The duties imposed by the act of the eighteenth year of your majesty's reign were so high as in effect to amount to a prohibition, for which reason it was repealed, and these duties substituted. Six pence on a raw hide increases the college revenue, is easily born by the commodity, and not complained of by the trader or exporter.

An Act to prevent the tending of Seconds.

Experience convinced the Legislature that turning out and tending seconds of tobacco depreciated that staple commodity and threatened the ruin of the trade. Whereupon several acts of Assembly were made to provide against that evil, particularly an act of the fourth year of the late queen Anne, for improving the staple of tobacco, and for regulating the size and tare of tobacco hogsheads, which has the sanction of her royal assent. Another made in the seventh year of the reign of his late majesty king George the first, of blessed memory, for the more effectual preventing the tending of seconds. Another of the third and fourth years of your majesty's reign, for repealing the act for the better and more effectual improving the staple of to-

had never been made: And that for the future, all slaves whatsoever shall be held, deemed, and taken, to be chattels personal.

Slaves declared to be chattels personal.

bacco, and for the better execution of the laws now in force against tending seconds, and for the further prevention thereof. And another of the tenth of your majesty's reign, to prevent cutting up tobacco suckers.

Representation against the repeal of certain laws.

Upon the revisal of their laws, your Assembly reduced such clauses of these acts, (except the first) into one act, with an amendment, that if any plants should be destroyed by tempest or otherwise, when growing, and thrown away without being cured or housed, any person might raise and tend seconds or slips upon the same stalks without incurring a penalty. Which they humbly conceived to be conformable to the spirit of the former laws, and founded on reason and justice. Fortho' the policy of these laws is to prevent the utter loss of the tobacco trade by overstocking the markets with bad tobacco, it does not intend to ruin the planter, whose whole support depends on his crop frequently exposed to tempests, and there is no danger of making two crops from the same plant, where what they call firsts have been destroyed. If this act was repealed upon an opinion that the preventing the tending and making tobacco from slips or suckers will so much lessen the quality of tobacco imported into Great-Britain as to diminish your majesty's revenue arising from that commodity, we beg leave to observe that from a law of the like nature which hath been in force more than forty years, no such effect has been produced; but during that time, we have always made as much tobacco as Great Britain and all its various branches of foreign trade could find markets for. And to encourage the making greater quantities than can be sold will immediately ruin the planter; and in consequence the trade too.

An Act for establishing the General Court, and for regulating and settling the proceedings therein.

This act contained little more than a collection of former acts relating to this court, and the rules of practice. It altered the returns of some of the process for the ease of the court, the benefit of the suitors, and the convenience of the attornies; limited appeals from the inferior courts to ten pounds, instead

But this act shall not alter any former right.

III. *Provided always, and be it enacted, by the authority aforesaid,* That nothing herein contained, shall be construed, deemed, or taken, to alter or de-

Representa-
tion against
the repeal of
certain laws.

of five pounds; which limitations is also in the act for establishing the county courts; and also limited original process to twenty pounds current money or four thousand pounds of tobacco, instead of ten pounds sterling or two thousand pounds of tobacco, with a view to keep up the dignity of the court, to prevent in some measure the too great increase of business, and to hinder litigious persons from harrassing their debtors in this court for small debts, where the delays occasioned by the multiplicity of causes, the costs and attendance of the parties, are more burthensome than in the inferior courts, which have competent jurisdiction of such suits. The good effects of this law began to appear during its short continuance.

An Act declaring Slaves to be Personal Estate, and for other purposes therein mentioned.

Slaves are in their nature personal estate, and not real, and so continued in this colony 'till the fourth of queen Anne, when the Legislature declared them real estate; but with so many provisos and exceptions that they remained personal estate in many instances. They might be sold, sued for, and taken in execution as chattels, and were not to escheat; they remained as personal assets in the hands of the administrator; and yet descended to the heir at law as real estate. He was answerable for a proportionable part of their appraised value to his younger brothers and sisters; except of those who were allotted to the widow for her dower, which he took wholly to himself upon her death. In the first year of your majesty's reign, another act was made to explain and amend the former; and by that wives' slaves were vested in their husbands; they were only to be given or bequeathed as chattels, and no remainder of them was to be limited otherwise than as a chattel personal by the rules of the common law. An infant of the age of eighteen years might devise them away, but they were not to be forfeited, except in cases where lands and tenements are forfeited; and the value of the slaves of mothers dying intestate, other than her dower slaves, was made distributable, as in the case of a father. It also allowed and settled

feat the right, title, property, claim, or demand of any person or persons whatsoever, of, in, or to any slave or slaves which hath heretofore accrued to him, her,

a method for annexing slaves to lands in tail, and declared that such slaves and their increase should pass and descend with the land as part of the freehold. But provided that such slaves might be taken in execution, and sold for the debts of the tenant in tail for the time being, and such sale should barr the intail. This last act being in the first part explanatory, was productive of many suits; it was thought to look back to the first law made twenty two years before, destroyed old titles, and created new, and was attended with such doubts, variety of opinions, and confusion, that new points are even yet started, and undetermined. To remedy which it was thought best to reduce them to their natural condition, so that they might not at the same time be real estate in some respects, personal in others, and both in others; and as the younger children were entituled to a proportionable part of the value of the slaves descended from a father or mother, they might also share with the elder brother when their collateral relations died intestate, which they could not do before. Nor did your Assembly think it beneficial or convenient to continue the method of intailing negroes any longer. They saw that slaves could not be kept on the lands to which they were annexed without manifest prejudice to the tenant in tail. Because in time they overstocked the plantations, and often the tenant was the proprietor of fee simple land, much fitter for cultivation than his intailed lands, where he could work his slaves to a much greater advantage. But on the other hand the frequent removing and settling them on other lands in other counties and parts of the colony, far distant from the county court, where the deeds or wills which annexed them were recorded, and the intail lands lay; the confusion occasioned by their mixture with fee simple slaves of the same name and sex, and belonging to the same owner; the uncertainty of distinguishing one from another, after several generations, no register of their genealogy being kept, and none of them having surnames, were great michiefs to purchasers, strangers, and credi-

Representa-
tion against
the repeal of
certain laws.

or them, by virtue of the said two recited acts; any thing in this act to the contrary or seeming to the contrary notwithstanding.

Representa-
tion against
the repeal of
certain laws.

tors, who were often unavoidably deceived in their purchases, and hindered in the recovery of their just debts. It also lessened the credit of the country; it being dangerous for the merchants of Great Britain to trust possessors of many slaves, for fear the slaves might be intailed. And should credit be destroyed in a trading country, as ours may be properly called, the consequence might be fatal. Virginia estates are attended with a certain large and yearly expence in furnishing these slaves with cloathing, food, and tools, paying their public poll taxes, and the quit rents of the lands. The profits arising from the crops of tobacco, and indian corn, are precarious, and often destroyed by gusts, droughts, and other casualties. But in such cases if the master cannot be trusted for necessaries, till he makes another crop, himself, family, slaves, and stocks, must be in miserable and starving circumstances.

Besides the clause for subjecting intailed slaves to be taken in execution for the debts of the tenant in tail for the time being, in effect annuls the former provision; because an unthrifty or designing tenant, by running in debt or borrowing money, and then confessing judgment, and getting his creditors to sue out executions against the intailed slaves, might defeat their settlement. And since your majesty was pleased in the eighth year of your reign, to confirm an act settling a manner for docking the intail of lands not exceeding the value of two hundred pounds sterling, by your writ in the nature of an *ad quod damnum*, it is doubted whether when the intail of such parcels of land is barred, the intail of the slaves annexed thereto does not determine, and the tenant gain an absolute property in them. As there is no notice to be taken of them in defeating the estate tail in the land, wherefore your Assembly were desirous of repealing these acts, but that they might avoid the mischief so justly complained of in the last act, they inserted a clause to save and make good all rights accrued under these laws.

An Act for the distribution of Intestates Estates.

The relation this act bears to the last concerning

IV. *Provided also*, That no slaves whatsoever shall be forfeited, except in such cases wherein the lands and tenements of the person incurring the forfeiture are, should, or might be forfeited.

Slaves not liable to forfeiture, except where lands might be forfeited. Commencement of this act.

V. *And be it further enacted, by the authority aforesaid*, That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one.

slaves, we humbly imagine caused its repeal as useless, because it varies so little from the old law for the distribution of intestates estates, and declaring widows rights to their deceased husbands estates, that it was not worth enacting, had not some clauses of the old act been thrown more properly into other laws, and clauses from other laws with greater propriety taken into this. But the chief end was to give the heir of an intestate, to whom the lands descended, an opportunity of keeping the slaves at their appraised value as it would be advantageous to him in tilling his lands, but not so valuable as money to the younger children who had no lands, *and to oblige the heir to pay them their parts of the value of the widows slaves when they should come to him.* It was also necessary to insert a clause to keep widows to their old allowance of only an estate for life, in a third part of the intestates slaves, to prevent the ruin which would otherwise soon happen to some of the best estates here, by widows marrying second husbands, and carrying with them a property in so many of their first husbands slaves. But we will not trouble your majesty with more reasons for this act, since it is of little use without the other.

Representation against the repeal of certain laws.

These, sir, are some of the principal reasons which we apprehended prevailed with the late Assembly to pass these laws, and which we most humbly submit to your royal consideration.

[From edit.
1752.]

An Act for the distribution of Intestates estates.

Distribution
of the perso-
nal estate ex-
cept slaves.

The wife's
part
The child-
ren's or their
representa-
tives.

The heir at law
shall have an
equal share.

Where each
child dies in-
testate, in the
mother's life
time, and
without wife
or child.

I. **F**OR the more equal distribution of the estates of persons dying intestate, within this dominion *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same, That* after debts, funeral, and other just expences first paid and allowed, the surplus of all and singular the goods, chattels, and personal estate, other than slaves, of every person dying intestate, shall be distributed amongst the wife and children, or childrens children, if any such, or otherwise to the next of kin to the dead person, in equal degree, or representing their stocks, according to their respective legal rights, and the rules and limitations herein after expressed, and not otherwise:— That is to say, one third part of such surplus to the wife of the intestate, and all the residue in equal proportion to and amongst his children, and in case any such child or children be then dead, to such person or persons as legally represent them, other than such child or children who have had any estate, settlement or portion, from the intestate in his life time, equal in value to the share arising by such distribution to each of the other children: But if such estate, settlement, or portion, be of less value, then such child or children shall be intituled to so much of the surplus aforesaid as shall make his, her, or their share, or shares, equal to the share of each of the other children, as near as can be estimated; and the heir at law, notwithstanding any land he may have by descent, or otherwise, from the intestate, shall nevertheless have an equal part in the distribution with the rest of the children, without any consideration of the value of the land.

II. And if after the death of a father, any of his children shall die intestate, without wife or children, and in the life time of the mother, every brother, and sister, and the representatives of them, shall have an equal share with her; and if all the children shall die intestate, without wife or children, in the life time of the mother, then the portion of the child, so dying last, shall be equally divided; one moiety to the mother, and the other moiety to the next of kin by the father;

and if there be no such kindred, the whole shall be to the mother.

III. And in case there be no children, nor any legal representatives of them, then one moiety of the surplus aforesaid, shall be to the wife of the intestate, and the other moiety to the next of kin to such intestate, who are in equal degree, and those who legally represent them; and if there be no such kindred, then all the said surplus shall be to the wife. Where no children or representatives.

IV. *Provided always*, That there be no representatives admitted among collaterals, after brothers and sisters children; and that in case there be no wife, then all the surplus aforesaid, shall be equally distributed to and among the children; and if there be no child, then to the next of kin to the intestate, and their legal representatives, as aforesaid. Who may be representatives. Where the intestate dies without wife.

V. *And be it further enacted, by the authority aforesaid*, That when any person dies intestate, his widow shall have one full and equal third part of all his slaves, which upon her petition to the court granting certificate of administration of her husbands estate, shall be assigned to her, by persons for that purpose to be nominated and appointed by the said court; and she shall hold such slave and slaves, and all their increase during her natural life, and after her death, the said slaves, and their increase, which shall be then living shall be appraised, and shall descend to, and be vested in the heir at law of the intestate, but he shall be answerable to the other children, or their legal representatives, for their proportionable value of the said slaves, in the same manner as is herein after directed, for the other remaining slaves. The widow's dower of slaves. How to be recovered. Held and determined. Vested in the heir.

VI. And the other remaining slaves of the intestate shall be immediately vested in his heir, but he shall be answerable to the other children, or their legal representatives, for their proportionable part of the true value of such remaining slaves, in the same manner as by this act is directed for the distribution of the other personal estate of the intestate. And also all the other slaves, but he must pay a proportion of the value to the other children.

VII. *Provided always, and be it enacted*, That nothing herein contained shall extend, or be construed to extend, to alter or defeat any estate, right, title, or interest, of, in, or to any slave or slaves held as dower, before the commencement of this act; but the same shall descend, pass, and go in the same manner as if Former rights and titles to slaves confirmed.

this act had never been made; any thing herein to the contrary, or seeming to the contrary, notwithstanding.

Widow, or her husband, permitting such slaves to be sent out of this colony, forfeits all her dower.

VIII. *And be it further enacted, by the authority aforesaid.* That if any widow possessed of any slave or slaves, as of the third part of her husbands slaves, shall send or permit to be sent out of this colony, such slave or slaves or any of their increase, without the lawful consent of him or her in reversion, such widow shall forfeit such slave or slaves, and all other her dower of such husbands estate, unto the person or persons having the reversion thereof; and if the husband of any widow, possessed as aforesaid, shall so send, or permit any such slave or slaves to be sent out of this colony, it shall be lawful for him or her in reversion to enter into, possess, and enjoy all the estate held by such husband, in right of his wifes dower and third part, for and during the lifetime of such husband.

Method of recovering partition of slaves.

IX. *And be it further enacted, by the authority aforesaid,* That where any person or persons have, or shall have right to demand a third part, or have partition of any slave or slaves, such person or persons shall and may exhibit a bill in equity for that purpose, against the person or persons of whom the same may be demanded, and the court before whom such bill shall be exhibited, shall compel the defendant or defendants to answer, and shall and may proceed upon such bill and answer, although the defendant or defendants, or any of them, be under the age of twenty one years, according to the course and rules of equity, and shall and may make such decree, for the assignment of such third part, or making such partition, in such manner as shall be most agreeable to equity.

Or a proportion of the value.

X. And that where it shall be necessary for the child or children of any person whatsoever, to bring any suit against the heir at law, for recovering his or their proportion of the value of any slave or slaves, pursuant to this act, such child or children shall and may exhibit his or their bill in a court of equity, for recovering such proportion; and such court shall and may proceed upon the bill, and the answer of the defendant, although he shall be under the age of twenty one years, and give such relief, for the recovering, and compelling the payment of such proportion, of the true value of such slave or slaves, as shall be agreeable to the rules of equity.

XI. *And be it further enacted, by the authority afore-* What part of his estate a testator shall leave his wife.
said, That when any person dies testate, and leaves one or two children, and no more, he shall not have power to dispose of more than two third parts of his estate, by will, to any other person or persons than his wife, and one third part thereof, at least, shall be given to her; and if he leaves more than two children, his wife shall not have less than a child's part, according to the number of children; but if he leaves no child, then the wife shall have at least an equal moiety of his estate: And when any widow shall not be satisfied with the provision made for her by her husband's will, it shall be lawful for such widow, within nine months after her husband's death, before the court where such will shall be proved, or by deed executed in the presence of two or more witnesses, to declare, that she will not accept, receive, or take the legacy, or legacies to her given, or bequeathed, or any part thereof, and will renounce all benefit and advantage which she might claim by such last will; and after such declaration, to demand and recover the third part of all the slaves whereof her husband died possessed, which she shall enjoy during her natural life, and after her death, or other determination of that estate, the said slaves shall go to the person or persons in whom the property thereof would have vested, in case the same had not been demanded; and moreover, such widow shall have such share of the other personal estate of her husband, as by this act is directed: But if such declaration be not made within the time before limited, she shall be for ever barred, to claim any other part of her husband's estate, than is or shall be given, or bequeathed to her, by his last will.

Her remedy where she is dissatisfied with her husband's will.

XII. *Provided always,* That if such widow dies before distribution of her husband's estate shall be made, according to this act, in that case her executors or administrators, may demand and recover so much as shall be given her by will, and no more; and where the widow of any person dying intestate shall depart this life before administration of her husband's estate shall be granted, the right of such widow to such estate, or any part thereof, shall be determined, and her executors, or administrators, shall not have any action for recovery thereof.

Limitation of a widow's right.

When & how
distribution
shall be
made.

XIII. And to the end due regard may be had to creditors, *Be it further enacted, by the authority aforesaid,* That no distribution of the goods of any intestate shall be made before the expiration of nine months after his or her death; and that every person claiming any share or part therein, shall give bond with sufficient sureties, in the court where such distribution shall be made, that if any just debt, or debts, owing by the intestate, shall thereafter appear, be sued for, or recovered, he or she will refund, and pay back to the administrator, his or her proportionable part of such debt and debts, and of all costs and charges occasioned thereby, that the administrator may be enabled to pay and satisfy the same.

Widows
dower in
lands and
tenements.

XIV. *And be it further enacted, by the authority aforesaid,* That the widow of every person dying intestate, shall be endowed of one full and equal third part of all her husbands lands, tenements, and other real estate, in manner as is directed and prescribed by the laws and constitutions of the kingdom of England; and till such dower shall be assigned, it shall be lawful for her to remain and continue in the mansion house, and the messuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the same.

Jointures ex-
cepted.

XV. *Provided always,* That where any widow shall have such a jointure settled on her in the life time of her husband, as by law doth barr her of her dower, she shall not hold possession of any houses or messuages of such husband, other than what shall be so settled on her.

Repealing
clause.

XVI. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, clause and clauses, heretofore made, for or concerning any matter or thing within the purview of this act, shall be, and are hereby repealed.

Commence-
ment of this
act.

XVII. *And be it further enacted, by the authority aforesaid,* That this act shall commence, and be in force, from and immediately after the tenth day of June, which shall be in the year of our Lord, one thousand seven hundred and fifty one.

CHAP. IV.

An Act for the better management and security of Orphans, and their estates. [From edit. 1752.]

I. **B**E it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same. That where any person hath, or shall have, any child or children, under the age of twenty one years, and not married, at the time of his death, it shall and may be lawful to and for the father of such child or children, whether born at the time of the decease of the father, or then an infant or infants in the womb, or whether such father be within the age of one and twenty years, or of full age, by his deed executed in his life time, or by his last will and testament in writing, in the presence of two or more credible witnesses, in such manner and from time to time as he shall think fit, to dispose of the custody and tuition of such child or children, for and during such time as he, she, or they shall remain under the age of one and twenty years, or for any lesser time, to any person or persons, in possession or remainder, other than popish recusants; and every such disposition heretofore made, or hereafter to be made, shall be good and effectual against all and every person and persons claiming the custody and tuition of such child or children, as guardian in soccage, or otherwise; and the person or persons to whom such custody and tuition hath been or shall be so disposed, or devised, shall and may maintain an action of ravishment of ward, or trespass, against any person or persons who shall wrongfully take away or detain such child or children, for the recovery of such child or children and shall and may recover damages for the same, in the said action, for the use and benefit of such child or children.

II. And that every person and persons to whom such custody and tuition hath been, or shall be so disposed, or devised, as aforesaid, shall and may take into his or their custody, to the use of such child or children, the profits of all lands, tenements, and hereditaments, and also the slaves, goods, chattels, and personal estate of such child or children, till their respective age of one

Fathers may by deed, or will, dispose of the custody and tuition of their unmarried infant children:

Such guardian shall have custody of the infants estate.

and twenty years, or any lesser time according to such disposition aforesaid, and may bring such action or actions, in relation thereunto, as by law a guardian in common soccage might do.

But may not discharge an apprentice; nor abridge power of court.

III. *Provided always*, That nothing herein before contained, shall extend to discharge any apprentice from his apprenticeship: Nor to take away the power of the general court, or county court, upon complaint to them made, of such guardian abusing the trust reposed in him, by misusing the child or children under his tuition, or neglecting the care of their education suitable to their estate, or wasting, converting to his own use, or otherways mismanaging such estate, to make and establish, from time to time, such rules, orders and decrees for securing the estate, and for the better education and usage of such orphans, as they in their discretion shall judge meet and necessary.

Jurisdiction of the General Court, and County Courts concerning orphans, and guardians.

IV. *And be it further enacted, by the authority aforesaid*, That the general court, and the several county courts of this dominion, within their respective jurisdictions, have, and shall have full power and authority, from time to time, to take cognizance of all matters concerning orphans and their estates, and to appoint guardians in such cases, where to them it shall appear necessary, and shall take good security of all guardians by them appointed, for the estates of the orphans to them respectively committed; and if any county court shall commit an orphans estate, to the charge or guardianship of any person or persons, without taking good and sufficient security for the same, in such case, the justices appointing such guardian or committing such estate, and every of them, shall be liable for all loss and damage sustained by the orphan, for want of such security; to be recovered with costs, by action at the common law, in any court of record, at the suit of the party grieved.

Court shall take security of guardians by them appointed.

County court failing so to do, the justices liable for damages.

Where not liable.

V. *Provided always*, That where the securities were good at the time of their being so accepted and taken, but afterwards become insolvent, in such case the justices shall not be liable.

Duty of guardians appointed by the court.

VI. *And be it further enacted, by the authority aforesaid*, That wherever a guardian shall be appointed to any orphan, by the general court, or by any county court, such guardian shall, at the next court after his appointment, exhibit his account upon oath of all the

estate of such orphan, which he shall have received into his hands; and every guardian heretofore, or hereafter to be by such court appointed, shall, once every year, exhibit his account and state of the profits and other incomes of the estate of such orphan, upon his oath: And such accounts so to be exhibited, shall be entred by the clerk in a book to be provided and kept for that purpose only: And when the said courts shall respectively know, or be informed, that any guardian or guardians, by them respectively appointed, do waste or convert the money or estate of any orphan to his or their own use, or do in any manner mismanage the same, or do not take due care of the educating and maintaining any orphan, according to his degree and circumstances; or where such guardian or his securities are likely to become insolvent, such court shall have power, from time to time, to make and establish such orders and rules, for the better ordering, managing, and securing such estate, and for the better educating and maintaining such orphans, or to appoint another guardian, as they in their discretion shall think most fit and expedient.

Their accounts to be entred by the clerk.

Power of courts relating to guardians breach of trust. Or becoming insolvent.

VII. And that every person heretofore appointed, or hereafter to be appointed guardian to any orphan, by any county court, shall, at the court held for that county in the month of August, in every year, or if no court be then held, at the next succeeding court held for that county, exhibit such account as aforesaid: And the justices of every county court shall yearly, at the same court, examine into all accounts of guardians so to be exhibited to them, and shall direct process to issue returnable to their next court, against all guardians who shall then fail to appear and render such account, whether such guardian be resident in the same or in any other county; and shall then also enquire into the abuses and mismanagements of guardians, and whether they or their securities are likely to become insolvent, and thereupon to proceed according to the power in this act before given them; and the justices of every county court who shall fail or neglect to do their duty herein, shall forfeit and pay the sum of five thousand pounds of tobacco, one half to our sovereign lord the king, his heirs and successors, to and for the use of the county, and the other half to

Guardians shall render annual accounts.

To be examination by the justices.

Process against guardian failing.

Penalty on justices failing.

the informer; to be recovered by action of debt or information, in any court of record in this colony.

Court may,
at any time,
enquire into
the conduct
of guardians.

VIII. *Provided always*, That nothing herein before contained shall be construed to abridge or restrain the power of the several county courts to enquire, as often as they shall think proper, into the abuses and mismanagements of guardians, but that it shall be lawful for them to exercise such power, at any time or times, when to them it shall appear necessary; any thing in this act to the contrary, or seeming to the contrary notwithstanding.

Whatguardi-
ans may
charge in
their ac-
counts.

IX. *And be it further enacted, by the authority aforesaid*, That it shall be lawful for every guardian, to charge in his account, all reasonable disbursements, and expences; and if upon rendring such account, it shall appear to the court, that such guardian hath really and *bona fide* disbursed more in any one year than the profits of the orphans estate, do amount unto, for the education and maintenance of the orphan, such guardian shall be allowed and paid for the same, out of the profits of such orphans estate, in any other year during his or her guardianship.

Disburse-
ments must
be suitable
to the or-
phan's de-
gree and es-
tate.
Provision for
poor orphans

X. *Provided always*, That such disbursements be, in the opinion of the court, suitable to the degree and circumstances of the estate of such orphan: And that where such estate shall be of so small value, that no person will educate and maintain him or her for the profits thereof, such orphan shall, by direction of the court, be bound apprentice, every male to some tradesman, merchant, mariner, or other person approved by the court, until he shall attain the age of one and twenty years, and every female to some suitable trade or employment, 'til her age of eighteen years; and the master or mistress of every such servant, shall find and provide for him or her, diet, cloaths, lodgings and accommodations fit and necessary, and shall teach, or cause him or her to be taught to read and write, and at the expiration of his or her apprenticeship, shall pay every such servant, the like allowance as is by law appointed for servants by indenture or custom, and on refusal, shall be compellable thereto in like manner: And if upon complaint made to the county court, it shall appear, that any such apprentice is ill used, or not taught the trade or profession to which he or she was bound, it shall be lawful for such court to remove

and bind him or her to such other person or persons as they shall think fit.

XI. *And be it further enacted, by the authority aforesaid,* That where any person who now is, or hereafter shall be security for the estate of any orphan, shall afterwards conceive himself in danger by reason thereof, and petition the court where such security was entred into for relief, it shall be lawful for such court, upon such petition to them exhibited, forthwith to order summons to issue against the party or parties, with and for whom the petitioner stands bound, returnable to the next court; and thereupon to compel such party or parties to give sufficient, other, or counter security, to be approved by the said court, or to deliver up the estate to the petitioner, or such other person as the court shall direct, or they may, and are hereby impowered to make such other order or decree therein, for relief of the petitioner and better securing such orphans estate, as to them shall appear just and equitable.

How securities for an insolvent guardian may be relieved.

XII. *Provided always,* That such court shall take good and sufficient security of the person or persons to whom such estate shall be so committed, in the like manner, and under the like penalty, as is by this act required to be taken of guardians appointed by the court; and every such person shall also exhibit his account, and be subject to the rules and orders of the court, in the same manner, to all intents and purposes, as is herein before required of guardians, or they are made subject unto.

Proviso.

XIII. *And be it further enacted, by the authority aforesaid,* That when any guardian, or person chargeable with the estate of any orphan, or with the estate of a person deceased, to him committed by any court of record in this colony, shall die so chargeable, the executors and administrators of such person so dying shall be compellable to pay and satisfy, out of the estate of their testator or intestate, so much as shall appear due to the estate of such orphan, or person deceased, before any other or proper debt whatsoever of such testator, or intestate; any law, custom, or usage, to the contrary thereof, in any wise, notwithstanding.

Where a guardian dies the orphans estate shall be secured before any other debt.

XIV. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, clause

Repealing clause.

and clauses, heretofore made, for or concerning any matter or thing within the purview of this act, shall be and are hereby repealed.

Commence-
ment of this
act.

XV. *And be it further enacted, by the authority aforesaid, That this act shall commence, and be in force, from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one.*

CHAP. V.

[From edit: 1752.] *An Act directing the manner of granting probats of Wills, and Administration of Intestates Estates.*

County
courts may
take proof of
wills, and
grant admin-
istrations.

I. **B**E it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, That the county courts of this dominion, and every of them, within their respective counties, have and shall have jurisdiction and authority to hear and determine all causes, matters, suits, and controversies testamentary, which shall be brought before them, and to examine and take the proof of wills, and to hear and determine the right of administration of the estates of persons dying intestate, and to grant certificates thereof, to the governor or commander in chief of this dominion, for the time being, or to his deputy, or deputies appointed for that purpose, being a member, or members of the said courts respectively, for obtaining thereupon a probat, or administration with the will annexed, or a commission of administration, as the case shall require, according to the methods and rules herein after directed: That is to say, if any person having a mansion house, or other place of known residence and abode, within this dominion, shall depart this life, and dispose of his or her estate, or any part thereof, by will, such will shall be proved in the court of that county where such mansion house, or place of residence shall be; and if any person having no mansion house, or place of residence, within this colony, shall devise lands therein, by will, in writing, such will shall be proved in the court of that county wherein such lands shall lie, and

Rules of
probats of
wills.

if such lands lie in several counties, and the testator dies in any one of them his will shall be proved in that county where he died; and if he dies in some other county, then in the court of one of the counties where in such devised lands shall lie, and not in any other county; and every such will so proved, as aforesaid, shall be as effectual for the disposing of lands, or any other estate, as if the same had been proved in every county where any of the lands or estate shall be.

II. And where any person shall depart this life, having first made a will, and therein appointed his executor or executors, and they shall all of them refuse the executorship, in such case, the same court wherein the will should have been proved, if the executors had accepted the trust, shall have power and authority to hear and determine the right of administration, and to grant certificate for obtaining letters of administration with the will annexed.

Where executors refuse administration with the will annexed shall be committed.

III. When any will shall be exhibited to be proved in the General Court, or in any county court, such court may immediately proceed to receive the proof thereof, and to appoint appraisers to value the slaves and personal estate of the testator.

When wills may be proved in court.

IV. But where by any will the lands of the testator, or any part thereof, shall be devised away from the heir or heirs at law, such proof, as to him, her or them, shall not be binding, but the court shall cause such heir or heirs to be summoned, to appear at the next court, and to contest the validity of such will, if he, she, or they think fit; and if there be several heirs, in equal degree to the testator, every such heir shall be so summoned; and if no heir be known to the court, or to the executors, who shall declare the same upon oath, before such court, then proclamation of such will, being exhibited and proved, shall be made by the sheriff at the court house, on two successive court days, and he shall also publish notice thereof, in writing, affixed at the door of every church in his county, and all persons concerned in interest, who at the time of proving any will, shall be under the age of one and twenty years, feme covert, *non compos mentis*, impri-soned, or out of this colony, shall have liberty to contest the proof thereof, within ten years after their several disabilities and incapacities removed, and not afterwards.

Where the heir at law may contest the will.

Rules in case of several heirs. Or, where no heir is known.

Infants, &c. may contest a will, within 10 years after disabilities removed.

Rules in case
of adminis-
tration.

V. And if any person having a mansion house, or other known place of residence, within this dominion, shall die intestate, the court of that county wherein such mansion house, or place of residence is, shall hear and determine the right of administration of the estate of such intestate, and grant certificate thereof in manner aforesaid.

VI. Where the intestate had no mansion house, or known place of abode in this colony, certificate for obtaining administration shall be granted by the court of the county wherein he died: If an executor or administrator dies intestate, not having fully administered the estate of his testator or intestate, the same court by whom certificate for probat, or administration was granted to such executor, or administrator, shall determine the right of administration of the estate not administred, and grant certificate thereof.

Devise of
lands, or ten-
ements must
be in writ-
ting.
How to be
attested.

VII. *And be it further enacted, by the authority aforesaid,* That all devises and bequests of any lands, or tenements, shall be in writing, and signed by the party devising the same, or by some other person in his presence, and by his express direction, and shall be attested, and subscribed in the presence of the said devisor, by two or more credible witnesses, or shall be wholly writ by the said devisors own hand, or else they shall be void and of no effect.

Such devises
shall remain
valid, unless
revoked in
writing, or
cancelled by
the devisor.

VIII. And that no devise, in writing, of lands, tenements, or hereditaments, or any clause thereof, shall at any time afterwards be revocable, otherwise than by some other will, or codicil, in writing, or other writing declaring the same, or by burning, cancelling, tearing, or obliterating the same, by the testator himself, or in his presence. and by his directions and consent: But all devises and bequests of lands, or tenements, shall remain and continue in force, until the same be burnt, cancelled, torn, or obliterated, by the testator himself, or by his directions in manner aforesaid, or unless the same be altered by some other will, or codicil in writing, or other writing of the devisor, signed in the presence of two or more witnesses, declaring the same; any law, or usage, to the contrary, notwithstanding.

Rules con-
cerning nunc-
upative
wills.

IX. And for prevention of fraudulent practices, by setting up nuncupative wills, *Be it further enacted, by the authority aforesaid,* That no nuncupative will shall

be good, where the estate thereby bequeathed, shall exceed the value of ten pounds current money, that is not proved by the oaths of two or more witnesses, present at the making thereof; nor unless it be proved that the testator, at the time of pronouncing the same did bid the persons present, or some of them, bear witness, that such was his will, or to that effect; nor unless such nuncupative will were made in the time of the last sickness of the deceased, and in the house of his or her habitation or dwelling, or where he, or she hath been resident for the space of ten days, or more, next before the making of such will; except where such person was surprised or taken sick, being from his or her own home, and died before he or she returned to the place of his dwelling.

X. *And be it further enacted, by the authority aforesaid,* That after six months passed, after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony, or the substance thereof, were committed to writing, within six days after the making such will. Where they shall not be of force.

XI. And that no certificate for granting probat of any nuncupative will, or for administration of the estate, by such will given or bequeathed, shall be granted by any court, 'til fourteen days, at the least, after the decease of the testator, shall be expired; nor shall any nuncupative will at any time be admitted to be proved, unless summons have first issued, to call in the widow, or next of kindred to the deceased, to the end that they may contest the same if they please. Nor any probat, or administration, granted thereon. The widow, or next of kin, shall be first summoned.

XII. *And be it further enacted, by the authority aforesaid,* That no will in writing, concerning any goods, chattels, or personal estate, shall be repealed, nor shall any clause, devise, or bequest therein, be altered or changed, by any words, or will, by word of mouth only, except the same be in the life of the testator committed to writing, and after the writing thereof, read unto the testator, and allowed by him, and proved to be so done by two or more witnesses. Written legacies of personal estate not revocable, except in writing.

XIII. *Provided always,* That any soldier being in actual military service, or any mariner, or seaman being at sea, may dispose of his moveables, wages, and personal estate, as he or they might have done before the making of this act. Soldiers, or mariners, excepted.

Rules in
granting ad-
ministrations

XIV. *And be it further enacted, by the authority aforesaid,* That administration of the estate of every person dying intestate, and administration with the will annexed of the estate of every testator, whose executor, or executors, shall refuse to prove and execute his will, shall be granted in manner following: That is to say, first, to the husband or wife of the deceased, and if none such, or if they refuse, then secondly, to the child or children, or their legal representatives, and if none such appear or claim, then thirdly, to the father or mother, or if none such, then fourthly, to the brothers and sisters, and if none such, then to the next of kindred to the deceased person; and if no will shall be exhibited, or administration sued forth, before or at the next court held after expiration of thirty days from any person's death, the court may grant administration to any creditor or creditors of the deceased, suing for the same, or to any other person the court in their discretion shall think fit.

Where cre-
ditors may
be admitted.

Method to
prevent
waste, or im-
bezzlement.

XV. *Provided always,* That where it shall appear to the court, either of their own knowledge, or upon application to them made by creditors, or legatees, that any estate is likely to be wasted, or imbezzled, such court may, and are hereby authorised and required, to proceed immediately to grant certificate for obtaining administration thereof.

Wills may be
proved after
administra-
tion granted.

XVI. *Provided also,* That if any will shall be afterwards exhibited to be proved, or any of the deceased person's kindred, not having before refused, shall appear and pray certificate for obtaining probat or administration, the same shall be granted in like manner, as if no former administration had been granted or obtained; nor shall any thing herein before mentioned be construed, to disable any court from summoning any person, or persons whatsoever, having the will of a person deceased, in his, her, or their custody, or possession, to exhibit the same to the court, in order to a legal probatation thereof; but the court may compel such person or persons, by summons, or other lawful process as they shall think fit, to produce such will, that the just and legal proceedings may be had thereupon.

Court may
compel any
person to
produce the
will of a per-
son deces-
ed.

Executors &
administra-
tors shall be
sworn.

XVII. *And be it further enacted, by the authority aforesaid,* That before granting certificate for probat

or administration, to any person or persons whatsoever, he, she, or they, shall personally, in open court, take one of the following oaths, as the case shall require, to wit,

The Oath of an Executor, or Administrator, with the Will annexed. •

YOU shall swear that this writing contains the true Executors last will of the within named A. B. deceased, as far ^{oath.} as you know or believe, and that you will well and truly perform the same, by paying, first, his debts, and then the legacies, contained in the said will, as far as his goods, chattels, and credits, will thereunto extend, and the law charge you, and that you will make a true and perfect inventory of all the said goods, chattels, and credits.

So help you God.

The Oath of an Administrator.

YOU shall swear that A. B. deceased, died without ^{Administra-} any will, as far as you know or believe, and that you ^{tors.} will well and truly administer all and singular the goods, chattels, and credits of the said deceased, and pay his debts, as far as his goods, chattels, and credits will thereunto extend, and the law require you, and that you will make a true and perfect inventory of all the said goods, chattels, and credits, as also a just account when thereunto required.

So help you God.

And shall also give bond, in a sufficient sum, proportionable to the full value of the estate, at the least, and ^{And give} with such sufficient security of persons residing in ^{bond and se-} the same, or any other county, as by the court shall be approved of, and with one of the conditions following, to wit,

Condition of the Bond to be given by Executors, or Administrators, with the Will annexed.

THE condition of this obligation is, that if the above bound A. B. executor of the last will and testament of C. D. deceased, (or administrator with the will annexed, of all the goods, chattels, and credits of C. D. deceased) do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased, which ^{Executors} ^{bond.}

have or shall come to the hands, possession, or knowledge of him the said A. B. or into the hands, or possession of any other person, or persons for him, and the same, so made, do exhibit or cause to be exhibited into the county court of N. at such time as he shall be thereto required by the said court, and the same goods, chattels, and credits, and all other the goods, chattels, and credits, of the said deceased, at the time of his death, which at any time after shall come to the hands, or possession, of the said A. B. or into the hands, or possession, of any other person or persons for him, do well and truly administer, according to law, and further, do make a just and true account of his actings and doings therein, when thereto required by the said court, and also do well and truly pay and deliver all the legacies, contained and specified in the said testament, as far as the said goods, chattels, and credits will thereunto extend, according to the value thereof, and as the law shall charge him, then this obligation to be void, otherwise to remain in full force and virtue.

Condition of an Administration Bond.

Administra-
tors.

THAT if the above bound A. B. administrator of all the goods, chattels, and credits of C. D. deceased, do make, &c.—[as before unto the words—when thereto required by the said court,] and all the rest and residue of the said goods, chattels, and credits, which shall be found remaining upon the said administrator's account, the same being first examined and allowed by the justices of the said court for the time being, shall deliver and pay unto such person, or persons respectively, as the said justices by their order or judgment shall direct, pursuant to the laws in that case made and provided: And if it shall hereafter appear, that any last will and testament was made by the said deceased, and the executor or executors therein named do exhibit the same in the said court, making request to have it allowed, and approved, accordingly, if the said A. B. being thereto required, do render and deliver up his letters of administration, approbation of such testament being first had and made in the said court, then this obligation to be void, &c.

The whole
penalty re-
coverable
thereon.

Which bond shall be payable to the justices of the court sitting at the time the same shall be entered into and taken, and their successors, and shall not become void

upon the first recovery, but may be put in suit, and prosecuted, from time to time, by and at the costs and charges in the law of any party or parties injured, until the whole sum of the penalty expressed in such bond shall be recovered thereon.

XVIII. *And be it further enacted, by the authority aforesaid,* That if any court shall grant certificate for obtaining administration of the estate of any person deceased, without taking good security for the same, as by this act required, the justices granting such certificate, and every of them, shall be answerable for all loss and damage accruing for want of such security, recoverable by action at the common law, by any person or persons injured.

Where no security shall be taken, the justices liable.

XIX. *Provided nevertheless,* That if the securities taken by the court were good, at the time of their being so accepted and taken, but afterwards become insolvent, in such case the justices shall not be answerable: And that where any person shall be security for any decedent's estate, or for the estate of any orphan, and shall conceive himself in danger, by reason thereof, and petition the court for relief, it shall be lawful for the said court to summon the party, with and for whom the petitioner stands bound, and to make such order or decree thereupon, as to them shall seem just and equitable, for relief and indemnifying of such petitioner, by counter security or otherwise.

But where good securities afterwards become insolvent the justices discharged. How securities may be indemnified.

XX. *Provided also,* That where any testator shall leave visible estate, more than sufficient to pay all his debts, and by his will shall direct, that his executor or executors shall not be obliged to give security, in such case, no security shall be required of him her or them: But where the court shall see cause, either upon their own knowledge, or the suggestions of creditors, or legatees, to suspect any executor or executors of fraud, or that the testator's personal estate will not be sufficient to discharge all his debts; in such or the like cases, the court may, if they think fit, require such executor or executors to give security, notwithstanding their testator's directions to the contrary: and if he, she or they, shall refuse or fail to give security, when ruled thereto by the court, such refusal or failure shall amount to a refusal of the executorship; and administration, with the will annexed, shall be committed in the manner by this act before directed.

In what cases security not required.

Executors refusal to give security, or refusal of the executorship.

Executors
may take
their testa-
tor's estate
'til probat or
administra-
tion granted.

XXI. *Provided also*, That nothing herein before contained shall be construed to abridge or restrain the power of executors over their testators estates, until probat of the will, or administration with the will annexed, be obtained or granted; but they may possess themselves thereof, and 'til then execute their trust, as fully and amply as if this act had never been made.

Rules in pro-
bats and ad-
ministra-
tions.

XXII. *And be it further enacted, by the authority aforesaid*. That all probats of wills, commissions of administration, or of administration with the will annexed, issued upon certificates granted according to this act, and signed by the governor, or commander in chief of this dominion for the time being, with the public seal of this colony affixed thereto, or signed by such other person or persons, being one or more of the magistrates in commission of the peace, as shall be thereto authorised by the said governor, or commander in chief, and sealed with the seal of the court granting certificate, which seal every county court is hereby empowered to provide, at the charge of their county, shall be and are hereby declared to be, good and effectual in law, to empower and enable the executors, and administrators, therein named, and every of them, to possess themselves of the estates of their testators, or intestates, by any lawful ways or means whatsoever.

XXIII: And to the end the value of estates may be the better known and a just account thereof kept.

Inventory to
be returned.

XXIV. *Be it further enacted, by the authority aforesaid*, That all executors and administrators shall exhibit a true and perfect inventory of all the estate to him her or them committed, to the court granting the probat or administration.

And the es-
tate apprais-
ed.

XXV. And that every court granting probat or administration, shall then also appoint and nominate three or more appraisers, in every county where any of the testator's or intestate's slaves, goods, or chattels shall be, who being sworn before any one justice of their county, truly and justly to value the estate to them produced, to the best of their judgment, shall accordingly appraise the same, and return such appraisement, under their hands, to the court ordering the same; and every appraiser shall be paid thirty pounds of tobacco, per day, for his trouble and attendance, to be defrayed by the estate, and allowed to the executor or administrator upon passing his account; and such appraise-

Appraisers
fee.

ment may be given in evidence, in any action or suit brought against the executor or administrator, to prove the value of the estate, but shall not be binding either upon the executor, administrator, creditor, or other person whatsoever, where it shall appear, by any other legal proof, that the slaves, goods, or chattels were really worth, or *bona fide* sold for more, or less, than the appraisement.

XXVI. *And be it further enacted, by the authority aforesaid,* That all executors and administrators, as soon as conveniently the same may be done, after the debts of their testator or intestate shall be fully satisfied and paid, shall sell and dispose of all such goods and chattels of their testator or intestate, specific legacies excepted, as are or may be liable to perish, consume, or be the worse for using, or keeping, for the most that can be got for the same in money, by public sale or auction, and shall and may, for the enhancing the price thereof, give credit upon good security, for what time such executor or administrator shall think fit, having regard to the circumstances of the estate, and the time when the legacies will become due, or distribution of such estate is to be made; and when such goods and chattels shall be so *bona fide* sold, the executor or administrator shall be answerable for the value of such sale, and no more; and in case any executor or administrator shall sell goods of his testator, or intestate, to be paid for at a future day, the buyer shall enter into bond to such executor or administrator, with one or more sureties, or shall give some other sufficient security, for payment of the money accordingly; and the executor or administrator, after the time of such payment is past, shall take and pursue all lawful ways and means to recover and receive the money, upon pain of being answerable for the same himself; and if the same shall not be received, before the legatees or other persons intitled to the distribution thereof shall have right to demand the same, it shall be lawful for the executor or administrator to assign such bond, or other security, to such legatee or other person as aforesaid, and such assignment shall discharge such executor or administrator, for so much against him or them.

XXVII. *Provided nevertheless,* That if after such assignment, the obligor or obligors in such bond become insolvent, so as the money for which such bond or other

How far appraisements shall be binding.

Duty of executors & administrators, in selling perishable goods. Specific legacies excepted.

Proviso.

security was given to be lost, such loss shall be made good to the assignee out of the estate of such testator or intestate.

Where no
appraise-
ment shall
be necessary.

XXVIII. *Provided also*, That where any testator shall direct, that his estates shall not be appraised, or shall be preserved in specie, and not sold, and shall leave personal estate more than sufficient to pay all his debts, nothing in this act shall extend or be construed to controul such last will, but the same shall and may be pursued and fulfilled; and the returning an inventory of the estate of such testator, without appraisement, shall be sufficient.

And an in-
ventory suf-
ficient.

Slaves shall
not be sold,
except
where not e-
nough other
goods to pay
debts.

XXIX. *Provided also*, That no executor or administrator hath or shall have any power, to sell or dispose of any slave or slaves of his testator or intestate, except, for the paying and satisfying the just debts of such testator or intestate, and then only, where there is not sufficient other personal estate to satisfy and pay such debts; and in that case, it shall be lawful for the executor or administrator to sell, at public auction such or so many slave or slaves, as shall be sufficient to raise so much money as the personal estate falls short of the payment of the debts.

Rules con-
cerning ser-
vants, slaves,
and crops.

XXX. *And be it further enacted, by the authority aforesaid*, That where any person shall die, between the first day of March, and the twenty fifth day of December, the servants and slaves which such person was possessed of at the time of his or her death, shall be continued and employed upon the plantation and plantations, held and occupied by the deceased person, until the twenty fifth day of December then next following, for the making and finishing a crop of tobacco, corn, or other grain; which crop, so made and finished, shall be assets in the hands of the executors or administrators, after the charges of cloathing and feeding such servants and slaves, and the expence of tools and utensils for them to work with, and also the quit-rents of the land whereon they work, levies and other incident charges, shall be deducted.

Servants &
slaves to be
delivered up,
after Dec. 25.
All above 10
years, well
cloathed.

XXXI. And after the said twenty fifth day of December all the servants and slaves of such deceased person shall be delivered up, to the party or parties having legal right to demand the same, and all such of the said servants or slaves, as shall then be of the age

of ten years or more, shall be delivered, well cloathed, at the charge of such decedent's estate.

XXXII. *Provided always*, That no executor or administrator shall be answerable for any servant or slave, dying before the said twenty fifth day of December, altho' such servant or slave be inventoried, or appraised.

If dead before that time executor not answerable.

XXXIII. And for the better preservation of wills, *Be it further enacted, by the authority aforesaid*, That all original wills shall remain in the clerk's office, among the records of the respective counties where they shall be proved, whereto any person may have recourse, as to other records, except for the time the same shall be removed by direction of the general court; and that to every probat shall be annexed a true copy of the will whereupon such probat was granted.

Wills to remain in the clerk's office.

XXXIV. And forasmuch as the preserving of neat cattle, and their increase, may be of great advantage to orphans, for the improving their lands; *Be it further enacted by the authority aforesaid*, That where any person dying intestate, shall leave sufficient to satisfy his debts, besides slaves and neat cattle, the heir at law being under age, such cattle shall be kept upon the lands and plantation of such heir, until he shall come of age, and he shall have the benefit of their increase, and bear all loss, if any shall happen.

Cattle shall be preserved till the heir comes of age.

XXXV. *Provided nevertheless*, That the administrator of such estate, or guardian of such orphan, in case such stock grow too numerous, or if it will be to the advantage of such orphan, shall, and may sell such part of such stock, as he shall think fit; and also that such heir at law shall satisfy and pay unto the other children, or such other persons as shall be intitled to a distribution of such intestate's estate, his, her or their proportionable part or parts of the value of such stocks of cattle, as shall be left at the time of the death of such intestate.

But if too numerous part may be sold.

And the heir shall be answerable to the other children.

XXXVI. *And be it further enacted, by the authority aforesaid*, That all and every the executors and administrators of any person or persons, who, as executor or executors, in his or their own wrong, and the executor or executors, administrator, or administrators, of any executor or administrator of right, who shall waste, or convert to his own use, goods, chattels, or estate of his testator or intestate, shall be liable, and chargeable, in

Executors, &c. in their own wrong, answerable to executors, &c. of right.

the same manner, as his or their testator or intestate, should or might have been.

Executors of guardians, joint-tenants, &c. accountable for receiving more than their share.

XXXVII. And that actions of account shall and may be brought and maintained against the executors or administrators of every guardian, bailiff and receiver, and also by one joint tenant, or tenant in common, his executors or administrators, against the other, as bailiff, for receiving more than comes to his just share or proportion, and against the executor or administrator of such joint tenant, or tenant in common.

Executors & administrators allowance.

XXXVIII. And that all executors and administrators shall be allowed in their accounts, all reasonable charges and disbursements, which they shall lay out and expend, for selling any estate, and receiving the money, upon such sale pursuant to this act; and also, for collecting and receiving the outstanding debts of their testator, or intestate; and no other allowance whatsoever.

Lists of probats and administrations when, and how to be returned.

XXXIX. *And be it further enacted, by the authority aforesaid,* That the clerk of every county court shall, in the months of April and October, annually, return to the secretary's office, a list of all certificates for obtaining probats or administrations, granted by their respective courts, from time to time, containing the names of the testators or intestates, their executors or administrators, and the names of the securities; which lists, the secretary of this colony, is hereby required to cause to be recorded in his office, alphabetically, in books for that purpose.

Where an estate is of the value of 100l. or more, probat, or administration may be granted by the general court.

XL. *And be it further enacted, by the authority aforesaid,* That where any testator or intestate shall leave estate, real or personal, of the value of one hundred pounds current money, or more, it shall and may be lawful for the general court of this dominion, upon motion to them made, to receive the proof of such testator's will, to them exhibited, and to hear and determine the right of administration of the estate of such intestate, and thereupon to grant certificate for obtaining probat or administration, or administration with the will annexed, as the case shall require, in the same manner, and with the same rules and limitations, as by this act is before directed to be observed in the county courts: And that all probats, and commissions of administration, granted upon certificates obtained in the general court, shall be issued under the seal of this colony, and sign-

ed by the governor, or commander in chief of this dominion for the time being, or by the president of the council for the time being, or by such judge or judges of the said court, as shall be for that purpose authorised, by commission of the said governor or commander in chief, which shall be good and effectual in law, to enable the executors, or administrators therein named, to recover and take the estate of their testator or intestate, so to them committed.

XLl. And that the forms of all oaths and bonds, by this act required of executors and administrators, shall be the same in the general court, as in the county courts. Oaths, and bonds, as before.

XLII. *Provided always*, That where the general court shall grant certificate for obtaining the administration of any estate, and shall fail to take sufficient security for the same, in such case the members of the said court, granting such certificate and every of them, shall be liable to pay all loss and damages accruing by such failure, in the same manner as the justices of the county court in the like case should have been. And security.

XLIII. *And be it further enacted, by the authority aforesaid*, That all and every other act and acts, clause and clauses, heretofore made, for or concerning any matter or thing, within the purview of this act, shall be, and are hereby repealed. Repealing clause.

XLIV. *And be it further enacted, by the authority aforesaid*, That this act shall commence and be in force, from and immediately after the tenth day of June, which shall be in the year of our Lord one thousand seven hundred and fifty one. Commencement of this act.

CHAP. VI.

An Act for establishing the General Court, and for regulating and settling the proceedings therein.

[From edit. 1752 This act was repealed by proclamation. See note to chap. 2.]

I. **F**OR the regular determination of suits and controversies, and for erecting, constituting, and continuing such courts, as shall be competent and necessary, to hear and determine all such causes, as shall be brought before them, *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the author-*

The general court of Virginia.

Who shall be judges there of.

Five of them to be a court.

The judges to be sworn.

ity of the same. That at some one certain place, lawfully appointed, and at the time and times herein after directed, there shall be held one principal court of judicature for this colony and dominion, which court shall be, and is hereby established by the name of the general court of Virginia, and shall consist of his majesty's governor or commander in chief, and council, for the time being, any five of them to be a court; and they are hereby appointed and declared judges or justices, to hear and determine all suits and controversies which shall be depending in the said court.

11. *And be it further enacted, by the authority aforesaid,* That every person who shall, from time to time, or at any time hereafter, accept the office of a judge or justice of the said court, before his entering upon, and executing the same, shall take the oaths appointed to be taken by act of parliament, and repeat and subscribe the test, and shall also take the following oaths, to wit,

The oath of a Judge of the General Court.

Their oath, as judges of common law.

YOU shall swear, that you will well and truly serve our sovereign lord the king, and his people, in the office of a judge or justice of the general court of Virginia, and you shall not counsel, or assent, to any thing which may turn to the hurt or disheriting of the king, by any way or colour, and you shall do equal law and execution of right to all the king's subjects, rich and poor, without having regard to any person: You shall not take by yourself, or by any other person, any gift or reward, of gold, silver, or any other thing, for any matter by you done, or to be done, by virtue of your office: You shall not take any fees, or other gratuity, of any person, great or small, except such salary as shall be by law appointed, or such salary as his majesty, his heirs or successors, shall think fit to allow you for your service: You shall not maintain by yourself or any other, privily or openly, any plea or quarrel, hanging in any of the king's courts: You shall not delay any person of common right, for the letters of the king, his governors of this colony, or of any other person, nor for any other cause; and in case any letter come to you, contrary to the law, you shall nothing do for such letter, but you shall proceed to do

the law, the said letters notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly and truly, according to the best of your skill and judgment, do equal and impartial justice without fraud.

So help you God.

The oath of a Judge of the General Court in Chancery. As judges in chancery.

YOU shall swear, that well and truly you will serve our sovereign lord the king, and his people, in the office of a judge or justice of the general court of Virginia in chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of this colony and dominion of Virginia, without favour, affection, or partiality.

So help you God.

III. And if any person whatsoever shall presume to sit or execute the said office, without first qualifying himself as by this act required, he shall for every such offence be fined five hundred pounds current money, one moiety thereof to our sovereign lord the king, his heirs and successors, for and towards the better support of this government, and the contingent charges thereof, and the other moiety to the informer. Penalty for executing this office, before sworn in.

IV. And be it further enacted, by the authority aforesaid, That the said general court shall take cognisance of, and are hereby declared to have power and jurisdiction to hear and determine, all causes, matters, and things whatsoever relating to or concerning any person or persons, ecclesiastical or civil, or to any persons or things of what nature soever the same shall be, whether brought before them by original process, appeal from any inferior court, or by any other ways or means whatsoever. Jurisdiction of this court.

V. *Provided always,* That no person shall take original process for the trial of any thing in the general court, of less value than twenty pounds current money, or four thousand pounds of tobacco, under penalty of the plaintiff's being non-suit, and paying costs; neither shall any person be prosecuted in the said court for breach of any penal law, where the penalty shall be less than twenty pounds current money, or four thousand pounds of tobacco. No original process nor suit on penal laws, for less than 20l. current money, or 4000l. tobacco.

Except a-
gainst coun-
ty courts or
vestries.

VI. *Provided also*, That any action may be commenced and maintained in the general court, by or against the justices of any county court, or other inferior court, or the vestry of any parish altho' the sum sued for shall not exceed twenty pounds.

General
Court to be
held twice a
year.

VII. *And be it further enacted, by the authority aforesaid*, That the said general court shall be held two times every year, to wit, one of the said courts shall begin upon the tenth day of April, if not Sunday, and then on the Monday thereafter, and shall continue to be held twenty four natural days, Sundays exclusive; and the other court shall begin upon the tenth day of October, if not Sunday, and then on the Monday thereafter, and shall also be held and continue twenty four natural days, Sundays exclusive.

Rules of court
for docket-
ing causes.

VIII. And that the first five days of every general court be appointed for hearing and determining suits in chancery, appeals from decrees of the county courts, or other inferior courts in chancery and writs of supersedeas to such decrees; and that the other days be appointed for trying suits or prosecutions on behalf of his majesty, and all other matters depending in the said court.

IX And that before every general court, the clerk shall enter in a particular docket for that purpose, all such causes, and those only, in which any issue is to be tried, writ of enquiry to be executed, special verdict, case agreed, or demurrer to be argued, and all causes set down for hearing, or argument in chancery, in the same order as they stand in course of proceedings; setting as near as may be, an equal number of such causes to each day.

Court may
adjourn.

X. *Provided always*, That if the business of the said court shall be ended in less time than the days herein before appointed, for the judges or justices to sit, it shall be lawful for them to adjourn to the next succeeding general court.

Rules of issu-
ing & returns
of process.

XI. And for the more regular prosecution and determination of suits or other processes in the said court, *Be it further enacted by the authority aforesaid*, That all original process either by writ, summons or any other manner or means, and all subsequent process thereupon, to bring any person or persons whatsoever, to answer in any action, real, personal, or mixed, suit, information, bill or plaint in the general court, and all

attachments awarded by the said court, at the common law, and all subpœnas and other process in chancery, shall be sued out and issued from the secretary's office, returnable on the respective days herein after directed, and shall bear teste by the governor, or commander in chief for the time being, and be signed by the clerk of the said court, and may be executed at any time before the day of the return thereof; and all such writs and process shall be returnable to the next succeeding general court, on the several days following, to wit, all writs and other process at the common law, shall be returnable to the eighth or twenty third day of the next general court, subpœnas and all other process in chancery, to the first or twenty third day, process at the suit of his majesty, or criminal prosecutions to the sixth day, process on petitions for lapsed land to the seventh day and on no other days or times whatsoever; and all such writs or process which shall be made returnable on any other days or times, shall be null and void; and if any writ or process shall be executed so late, that the sheriff hath not reasonable time to return the same, before the day of appearance, herein after limited, and thereupon an alias or pluries capias, attachment, or other process, shall be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, and thereupon the plaintiff shall declare, and use the same proceedings as herein after directed, and as if such writ or process had been returned to the secretary's office, on or before the day of appearance limited for the return thereof.

XII. And that all appeals from decrees in chancery, obtained in any county court, or other inferior court, shall be made to the third day of the next general court, and all appeals from judgments of any of the said courts, in suits at common law, shall be to the respective days following, to wit, from the county courts of Henrico, Prince George, Surry, Isle of Wight, Nansemond, Norfolk, Princess Ann, Albemarle, Amelia, Brunswick, Goochland, Cumberland, and Lunenburg, to the eighth day; James City, Charles City, New-Kent, Warwick, Elizabeth City, York, Hanover, and Louisa, to the ninth day; Gloucester, King William, King and Queen, Middlesex, Essex, Caroline, Augusta, Spotsylvania, and Orange, to the tenth day; Richmond, Westmoreland, Northumberland, Stafford, Lan-

Appeals:

caster, Fairfax, Frederick, King George, Culpepper, and Prince William to the eleventh day; Accomack; and Northampton, to the twelfth day of the next succeeding general court; and no appeal shall be admitted on any other day: Appeals from such judgments of any corporation court, shall be to the same day as appeals from the county wherein such corporation is; and that all writs of error, supersedeas, and certiorari, shall be returnable to the same days respectively, as appeals from judgments at the court of that county to which such writ or writs shall be directed. And the clerk of the court is hereby required to regulate the docket accordingly, proportioning the suits and causes to such of the said days as will be most convenient.

Writs of error, supersedeas, certiorari.

Process against a councillor.

XIII. *And be it further enacted, by the authority aforesaid,* That if any action, or other process, shall be commenced and prosecuted against any person, being a member of his majesty's council of state, within this dominion, then instead of other process which might be legally taken in like case against any other person, the clerk of the general court shall issue a summons directed to the sheriff of the county where such councillor usually resides, reciting the matter or cause charged against him, and summoning him to appear and answer the same, upon such a certain day of the next general court, as shall be therein mentioned; and if such councillor shall not appear at the day, according to such summons, it shall be lawful for the court to award an attachment against the estate of such councillor, so failing to appear, and thereafter the proceedings in such cases shall be in the same manner as upon the sheriff's returning, *non est inventus*, upon any ordinary process; and in like manner process against the sheriff of any county, shall be issued and directed to any coroner of the county where such sheriff resides, and thereupon the like proceedings shall be had against him, as are herein before directed concerning a councillor: And if any councillor, or sheriff, shall fail to answer process in chancery, one or more distringas shall thereupon issue, to compel such defendant to answer.

Or a sheriff.

Appearance in personal actions, where nobail is required.

XIV. *And be it further enacted, by the authority aforesaid.* That when any writ shall issue whereby the sheriff is commanded to take the body of any person or persons, to answer unto any plaintiff or plaintiffs, in

the general court, in any personal action, and no debt or damages shall be mentioned in such writ, or if bail shall not be by law requirable; in every or any such case, the sheriff to whom such writ shall be directed, may take the engagement of any attorney, practising in the general court, under his hand, endorsed upon such writ, that he will appear, or cause an appearance to be entered for the defendant, or defendants, within named, according to the return of the said writ: And such appearance shall be accordingly entered with the clerk of the court, in the secretary's office, on the second day after the end of the general court, to which such process shall be returnable: Which said second day after the end of every general court, shall be accounted, deemed, and taken, and is hereby declared to be the day of appearance, to all process at the common law, or in chancery, returnable to any day of the court next preceding; and if any attorney, or other person practising as an attorney, so engaging to enter, or cause an appearance to be entered shall fail so to do, he shall forfeit and pay to the plaintiff or plaintiffs, fifty shillings current money, for which judgment shall be immediately entered, and the plaintiff may take execution thereupon, by *capias ad satisfaciendum*, or *fieri facias*.

Attorney engaging to appear, and failing forfeits 50 s.

XV. *And be it further enacted, by the authority aforesaid,* That upon executing any process, whereupon bail shall be requirable, the sheriff shall return therewith the names of the bail by him taken, and a copy of the bail bond, to the secretary's office, before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail so returned shall be subject to the same judgment, and recovery, and have the same liberty of defence, as the defendant might have, or be subject to, if he had appeared, and given special bail; and if the sheriff shall not return bail, and a copy of the bail-bond, or the bail so returned shall be judged insufficient by the court, or the defendant shall fail to give special bail, being ruled thereby by the court, then judgment shall be given against the sheriff, in the same manner, and with the same condition, as against the bail: And if the sheriff depart this life, before judgment be confirmed against him, in such case it shall be lawful to confirm such

Where bail shall be requirable.

In what case the bail, or sheriff shall be liable.

judgment against the executors, or administrators, of such sheriff; and if there shall not be any probat or administration granted, then it shall be lawful to confirm the judgment against the estate of such deceased sheriff, and a writ of *feri facias* shall and may issue, to seise and levy so much of his goods and chattels, as will satisfy the judgment, and every part thereof.

Sheriff's remedy where the bail is judged insufficient.

XVI. *Provided always*, That the plaintiff shall object to the sufficiency of the bail, during the sitting of the General Court, to which the writ is returnable, and at no time after; and no judgment shall be entered against the sheriff, where bail is returned, unless such bail shall be adjudged insufficient by the judges of the General Court, at the time aforesaid; and where the bail shall be adjudged insufficient, and judgment shall be given against the defendant and sheriff, the sheriff shall have the same remedy against the estate of such bail, as he may have against the defendant's estate.

Where judgment against defendant & sheriff, or bail, may be set aside.

XVII. *Provided also*, That every interlocutory or final judgment, against any defendant and the sheriff, or against any defendant and the bail, returned by the sheriff, entered or obtained before any General Court, next ensuing the return of the writ upon which such defendant was arrested, shall be set aside, if the defendant upon the eighth day of the court next ensuing the return, as aforesaid, shall be allowed to appear without bail, or shall put in good bail, and plead to issue immediately.

Remedy for sheriff, or bail, where judgment is confirmed against them.

XVIII. *And be it further enacted, by the authority aforesaid*, That in every case, where judgment shall be confirmed against any defendant or defendants, and the bail, or against any defendant or defendants, and the sheriff, or against his executors or administrators, or against his estate, as aforesaid, it shall and may be lawful for the court, where such judgment shall be confirmed, upon motion of such bail or sheriff, or his executors or administrators, or of any other person on his or their behalf, to order an attachment against the estate of such defendant or defendants, or so much thereof as shall be sufficient to satisfy such judgment and costs, and all other costs and charges concerning the same; which attachment shall be returnable to the next succeeding court, and thereupon such estate shall by the court be condemned, for satis-

faction of the judgment, costs, and charges aforesaid, and shall be sold as goods taken in execution, by *fiery facias*; and out of the money arising by such sale, so much as shall be sufficient shall be paid to the bail, or sheriff, or his executors or administrators, to his and their own proper use, and the remainder, if any after charges deducted, to the person from whom the same was attached, or his, her, or their attorney, or agent, when required.

XIX. *And be it further enacted, by the authority aforesaid,* That it shall and may be lawful to and for any judge or justice of the General Court, and every such judge or justice is hereby authorised and impowered, when the said court is not sitting, to take a recognizance of bail in any action in the said court depending, which shall be taken *de bene esse*; and if the plaintiff or his attorney shall accept to the sufficiency of the bail so taken, notice of such exception shall be given to the defendant, or his attorney, at least ten days before the next succeeding General Court, and if the bail so taken shall be judged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall or may be had against the defendant or defendants, as if no such bail had been taken; but if such bail shall be judged sufficient, or shall not be accepted to within the time aforesaid, then the same shall stand and be chargeable to all intents and purposes, as if the recognizance had been taken in court: And every person becoming special bail for any defendant, or defendants, shall be liable to the judgment given against him, her, or them, unless he render the defendant's body in execution, in discharge of his bail.

Any judge of the general court may take recognizance of bail, when the court is not sitting. But may be excepted to.

Where the special bail shall be liable.

No special bail in suits upon penal laws, except expressly by the law required.

Rules in returns of writs, & appearance in custody.

XX. *Provided always,* That no special bail shall be requirable in any suit brought upon a penal law, unless by such law bail shall be expressly directed.

XXI. *And be it further enacted, by the authority aforesaid,* That when any sheriff shall return, that he hath taken the body of any defendant, and committed him to prison, for want of bail, the plaintiff may proceed, and the defendant shall have liberty to make defence, as where an appearance shall be entered and accepted; nevertheless such defendant shall not be discharged out of custody, unless the plaintiff be ruled to accept an appearance, at the next succeeding gene-

ral court, or by putting in good bail. And that where any defendant, after appearance entered, shall be in custody of the public prison for debtors, the plaintiff may file his declaration, and give a rule to plead, but shall deliver a copy of such declaration and rule to the defendant, or his attorney, one month at least before expiration of the rule; and if thereupon, and oath of the delivery of such copy, made before one of the judges of the general court, such defendant shall fail to enter his plea, before the rule be out, the plaintiff may have judgment, in the same manner as is herein-after directed upon failing to plead in any civil action.

XXII. And for the better ascertaining what process shall or may be sued out, where the sheriff returns, that the defendant is not to be found in his bailiwick, *It is hereby further enacted*, That where any sheriff shall make such return, the plaintiff or plaintiffs, in any civil action, shall and may sue out an attachment against the estate of such defendant, returnable as herein is before directed for the returns of original and other subsequent process thereupon, to force an appearance, or an *alias*, or *pluries capias*, if the defendant cannot be arrested upon the *alias capias*, or a *testatum capias* where the defendant shall be removed into another county, 'til such defendant shall be arrested at the election of the plaintiff or plaintiffs; and if the sheriff shall return any goods by him attached, the plaintiff shall file his declaration, and be intituled to a judgment for his whole debt, and the goods so attached shall remain in custody of the sheriff, 'til such judgment obtained, and then be sold and disposed of, in the same manner as goods taken in execution upon a writ of *fieri facias*; and if the judgment shall not be satisfied by the goods attached, the plaintiff may have an execution for the residue: *Provided always*, That all goods so attached shall and may be replevied by appearance and putting in good bail, if the defendant shall be ruled by the court to give special bail. And that where the plaintiff will proceed to the outlawry of any defendant, in any civil action, he may upon the *pluries capias*, or *capias ad satisfaciendum*, returned *non est inventus*, sue out, and the clerk of the general court is hereby impowered and required, upon request, to issue, an exigent and proclamation, returnable upon

Where the
defendant is
not found.

Outlawry in
civil actions.

either of the return days aforesaid, to the end that such defendant may be outlawed thereupon.

XXIII. And for the more speedy determination of all causes depending in the said court, *Be it further enacted, by the authority aforesaid,* That these following rules and methods shall be observed, to wit; that in all personal actions the plaintiff shall file his declaration within one month after the defendant shall have entered his appearance, with the clerk in the secretary's office, and if the plaintiff shall fail or neglect so to do, or if any plaintiff or demandant fails to appear, and prosecute his suit, he shall be non-suit. Rules in personal actions, at the common law.

That where any non suit shall be awarded, there shall be paid for the same, to every defendant or tenant, one hundred and fifty pounds of tobacco, and costs, where the defendant's or tenant's place of abode is at the distance of twenty miles, or less, from the place of holding the general court; and where it is more, five pounds of tobacco for every mile above twenty, Non-suit.

When the defendant has entered his appearance, and the plaintiff files his declaration, he may give a rule to plead with the clerk of the court in the secretary's office, which shall be out in one calender month after such rule given. Pleadings:

That all rules to plead, reply, rejoin, or for further or other proceedings, shall be given regularly, from month to month, after the first rule for pleading is expired, and shall not be out in less time than one calender month, nor shall any rule be given between month and month to the intent that all attornies and others, by inspecting the rule book to be kept by the clerk of the court, may be more certainly and readily informed what proceedings have been, or are to be, in the several causes there depending.

That upon the expiration of any rule, judgment by default, or a non suit, shall be signed by the clerk in the office, as of the preceding court, which judgment shall be final in actions of debt, where the debt is certain, and in other actions a writ of inquiry shall be executed, the next court after judgment signed in the office, the plaintiffs attorney giving the defendant or his attorney six days notice of the execution thereof, if the defendant lives within twenty miles of the Judgment by default, or non-suit.
Writ of inquiry.

place where the general court shall be held, and if more than that distance, twelve days notice.

Trial.

That no issue shall be tried the next succeeding general court after it is joined, unless ten days notice be given by the plaintiffs attorney to the defendant, or his attorney, before the day of trial, if the defendant lives within twenty miles as aforesaid, but if he lives at greater distance, then twenty days notice shall be given.

If an issue be not tried, or writ of inquiry executed the next court after it is joined, or judgment by default, or interlocutory judgment entered, no notice of trial, or executing such writ, need to be given; but such causes shall be called in the same order as they stand on the docket.

Final judgment & lawyer's fee.

That when any final judgment shall be obtained out of court, the clerk shall allow a lawyers fee in the bill of costs, if the plaintiff employed one; which fee is hereby declared in all cases in the general court, to be fifty shillings current money, or five hundred pounds of tobacco, at the election of the party adjudged to pay the same, but no such fees shall be taxed against executors or administrators.

Special verdict, or case agreed.

That where a special verdict shall be found, or case agreed, time shall be allowed, upon the motion of either party, to the next general court to argue it, and if any causes shall at the end of the court remain undetermined, they shall be continued of course by the clerk to the next succeeding court, without calling the same in court.

Pleas in abatement.

That where a plea in abatement shall be pleaded, in any action, and upon argument the same shall be judged insufficient, the plaintiff or plaintiffs, in such action shall recover against the defendant or defendants, full costs to the time of over-ruling such plea, including the costs of that court in which such plea shall be over-ruled, (a lawyer's fee only excepted;) and that no plea in abatement, or of *non est factum*, shall be admitted or received, unless the party offering the same, shall, by affidavit, prove the truth thereof; and that the plaintiff in replevin, or the defendant in any other action, may plead as many several matters as he shall think necessary for his defence, so as they be not admitted to plead and demur to the whole.

That in all cases where a fine is laid on the justices of any county court, or the vestry of any parish, one action may be brought against them all jointly.

Fines on
countycourts
or vestries.

That for the more entire and better preservation of the records of the court, when any cause shall be finally determined, the clerk shall enter all the pleadings therein, and other matters relating thereto, together in a book to be kept for that purpose, so that an entire and perfect record may be made thereof; and where the title of any estate in land is determined, the pleadings shall be all in writing, and shall be entered at large, with the judgment thereupon, in particular books for that purpose.

Records of
causes.

That for prevention of errors in entering up the judgments of the court, the proceedings of every day shall be drawn at large, by the clerk, against the next sitting of the court, when the same shall be read in open court, and such corrections as are necessary made therein, and then the same shall be signed by the secretary of this dominion, for the time being, or his deputy, and carefully preserved among the records.

That in all cases where witnesses are to appear before the general court, a summons shall be issued by the clerk, expressly mentioning the day and place, when and where the witness shall appear, the names of the parties to the suit, wherein they are to give evidence, and on whose behalf they are summoned.

Rules for
witnesses.

That where any witness shall be departing this colony, or by age, sickness, or other legal disability, is rendered incapable of attending the court, the party requiring such witness's testimony, may obtain certificate of such departure or disability, under the hand of one or more justice or justices of peace, of the county where such witness lives, which being produced to any two of the judges of the general court, they may, at any time, upon request of either party, order such witness's deposition to be taken, at such time and place, and before such persons, as they shall think proper; or where the court shall be satisfied of the disability of any witness to attend, they may grant such order if they think fit, and thereupon commissions to examine such witnesses, shall be issued by the clerk; but the party obtaining the same, shall give reasonable

Examinati-
ons of such as
cannot at-
tend the
court.

notice, of the time and place of executing such commission, to the other party, otherwise the depositions taken shall be void.

Refusal to
give evi-
dence:

That if any person whatsoever, summoned as a witness, upon his or her appearance before the court, or persons commissioned as aforesaid, to examine and take his or her deposition, shall refuse to give evidence, upon oath, or being one of the people called Quakers, solemnly to affirm and declare, to the best of his or her knowledge, every person so refusing, shall be committed to the common goal, there to remain without bail or mainprize, until he or she shall give such evidence.

Recusant
convict dis-
abled to be a
witness.

Persons sum-
mon'd failing
to attend.

That popish recusants convict shall be incapable to be witnesses, in any cause whatsoever.

That if any person summoned to attend the general court, as a witness, shall fail to attend accordingly, he or she so failing, shall be fined by the said court, one thousand pounds of tobacco, to be paid to the party for whom such witness was summoned, and shall be further liable to the action of such party, at the common law, for his or her damages: But if at the time such witness ought to have appeared, or at the next succeeding court, sufficient cause of his or her inability to attend be shewn to the court, then no fine or forfeiture shall be incurred by such failure.

Witness's
privilege.

That during the attendance of any witness at the general court, and coming to, and returning from thence, allowing one natural day for every twenty miles such witnesses place of abode shall be distant from the same, no person or persons whatsoever shall serve or execute, or cause to be served or executed upon any witness, coming to, attending, or returning from the said court, any writ or process whatsoever; and if any such be served or executed, the same shall be void, to all intents and purposes.

Their allow-
ance.

That every witness attending upon summons shall be paid by the party at whose suit the summons issued, one pound of tobacco and a half, per mile, for coming to the place where he or she was summoned to appear, and the same for returning, besides ferriages, and sixty pounds of tobacco per day, for attendance until he or she shall be discharged.

That all witnesses attending the general court, shall claim their allowance by the clerk in the office, and

not in court, unless refused by the clerk and then the witness may apply to the court for allowance thereof.

That in any bill of costs there shall not be allowed the charge of more than three witnesses to the proof of any one particular matter of fact.

XXIV. And to the intent that erroneous proceedings and judgments of the inferior courts of record of this dominion may be corrected, and amended, *Be it further enacted, by the authority aforesaid,* That where any person or persons, bodies politic or corporate, shall at any time be aggrieved by the judgment, decree, or sentence, of any other court of record of this colony, in any action or suit whatsoever, where the debt or damage, or other matter recovered in such action or suit, exclusive of the costs, shall exceed ten pounds current money, or two thousand pounds of tobacco, or the value thereof, or where the title or bounds of lands shall be drawn in question, it shall be lawful for such party or parties to enter an appeal from such judgment, decree, or sentence, to the general court, and to assign error in manner following, and not otherwise: That is to say, upon an appeal in any personal action, or suit where the judgment or decree shall not exceed twenty pounds current money, or four thousand pounds of tobacco, the appellant shall assign error in matter of right only, and if upon a hearing in the general court, such judgment or decree shall appear to be according to the right of the cause, the same shall be affirmed, notwithstanding any mispleading, or error in matter of form.

Rules in ap-
peals.

And where the judgment or decree shall be for more than the sums last mentioned, and not exceed fifty pounds current money, or ten thousand pounds of tobacco, the appellant may assign error in matter of right, and such errors in the form or manner of the proceedings, as were insisted upon in the court from whence such appeal shall be made; and if such errors shall not appear sufficient to reverse the judgment or decree, the same shall be affirmed.

And in all personal actions, suits in chancery, informations, or other controversies, of greater value than fifty pounds current money, or ten thousand pounds of tobacco, and in all real actions, of what value so ever, the appellant may assign any errors of form or substance.

Statutes of
jeofails de-
clared in
force.

And that for prevention of delay by arresting judgments, and vexatious appeals, the several acts of parliament, commonly called the statutes of jeofails. now in force and use in England, shall be and are hereby declared to be, for so much thereof as relates to any mispleading, jeofail, and amendment, in full force in this dominion also.

Damages up-
on appeals.

That where the defendant in any personal or mixed action, or suit, shall appeal, and upon trial the judgment or decree is affirmed, the damages shall be fifteen per cent upon the principal sum, and costs, recovered in the county or inferior court.

And in any real action the damage shall be two thousand pounds of tobacco, over and above all costs, charges, and damages, awarded by the inferior court.

And where the plaintiff or demandant appeals, and the judgment or decree shall be affirmed, such appellant shall pay to the appellee fifty shillings, or five hundred pounds of tobacco, besides all costs accruing on such appeal.

No appeal,
writ of error,
or superse-
deas, to be
granted in a
ny case un-
der 10l. cur-
rent money,
or 2000l. to-
bacco, exclu-
sive of costs.

Except
where the ti-
tle or bounds
of land is
questioned.

Nor before a
final judg-
ment or de-
cree:

Method of
suing forth
writs of er-
ror, and su-
persedeas.

And that no appeal shall be valid, nor any writ of error, or superseadeas, granted or allowed for reversing any judgment or decree of any county court, or other inferior court, in any action or suit whatsoever, where the debt, damage, or other matter recovered, shall be of less value than the aforesaid sum of ten pounds current money, or two thousand pounds of tobacco exclusive of costs, unless in such suit the title or bounds of lands shall be in question: Nor shall any appeal, writ of error, or superseadeas, be granted or allowed until a final judgment or decree shall be given in the county court, or other inferior court.

XXV. And to the end that all writs of error, and superseadeas, may be regularly obtained and issued, *Be it further enacted, by the authority aforesaid,* That the party praying such writ or writs, shall petition the governor or commander in chief, for the time being, and the rest of the judges of the general court, and assign error, and some attorney, practising in the general court, shall certify under his hand, that in his opinion sufficient matter of error is set forth or shewn, by the petitioner; and thereupon the governor or commander in chief, and two other of the judges, may order such writ or writs to be issued, by the clerk of the general court, or may reject the petition, as they

think fit; and upon granting such writ or writs, and before issuing thereof by the clerk, such petitioner shall give bond and security in the secretary's office: Which bonds shall be under the like penalties and conditions, and the parties subject to payment of the like damages and costs, as in cases of appeal.

And if upon trial of any appeal, writ of error, or *su- Judgment* persedeas, the judgment or decree of any county court, or other inferior court, shall be reversed, the general court shall enter such judgment, or make such decree thereupon, as should have been entered or made in the inferior court.

XXVI. And for settling a method of obtaining writs of *Certiorari* certiorari, to remove civil causes from the county courts, *how to be* or other inferior courts, into the general court, *sued forth* *Be it* further enacted, by the authority aforesaid, That the party desiring such writ or writs, when the general court is not sitting, shall by petition to the governor or commander in chief for the time being, and the rest of the judges of the general court, set forth the reasons of his desiring such writ or writs, and shall make oath before a magistrate to the truth of the allegations of his petition, and then the governor and any other two of the judges may, under their hands, order and award such writ or writs to the party praying the same, or may refuse such writ or writs, according as the matter shall appear to them just and necessary, or not; and the clerk of the secretary's office shall carefully file such petition and affidavit in the office; and shall also take bond from the petitioner, in such penalty as shall be directed by the governor and judges ordering and awarding such writ or writs, and with one or more sufficient security or securities, for satisfying and paying all such sum and sums of money, or tobacco, and costs, as shall be adjudged to the adverse party, in the cause or causes so to be removed, and thereupon the clerk shall and may issue such writ or writs, but not otherwise.

And that if any person making oath to the truth of the allegations of his petition, as aforesaid, shall take a false oath, and be thereof convicted, he shall be adjudged guilty of perjury, and suffer as a person convicted of wilful and corrupt perjury: *Punishment* *of the party* *taking a* *false oath:* *Provided always,* That the prosecution of such offence be commenced within twelve months after the offence committed.

This writ shall not be granted in any matter not originally cognizable in the general court. Causes remanded shall not be removed before judgment.

And that no writ or writs of certiorari whatsoever shall be granted, where the matter in dispute shall not be originally cognizable in the general court: And if any cause or causes be removed, or stayed by any such writ or writs, and afterwards the same cause or causes shall be remanded, or sent back again, by any writ of procedendo, or other writ whatsoever, such cause or causes shall never afterwards be removed, or stayed before judgment, by any writ or writs whatsoever, to be sued forth from the general court, or secretary's office.

Notice to the adverse party.

And that to prevent the obtaining any writ of certiorari by surprise, the party praying such writ in any civil cause, shall give notice to the adverse party, of the time of his moving or petitioning for such writ at least ten days before such motion or petition, and no such writ shall at any time be granted, without producing an affidavit of such notice.

Habeas corpus.

XXVII. *And be it further enacted, by the authority aforesaid,* That where any person shall be committed in any civil action, to the goal of any county, or corporation for any cause or matter cognizable in the general court, it shall and may be lawful for such person to sue out an habeas corpus, cum causa, to remove his or her body to the public general court prison, and the cause of such commitment into the general court, and the clerk of the secretary's office is hereby authorised and required, upon the application of any such prisoner, to issue such writ accordingly.

Rules in chancery.

XXVIII. And for settling the method of and expediting proceedings in the general court in chancery, *Be it further enacted, by the authority aforesaid,* That in all such suits the following rules and methods shall be put in practice and observed, to wit, that the complainant shall file his bill within four days after the day of appearance. That upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the complainant shall pay costs, to be taxed by the clerk of the court, for which costs a subpœna, or other process of contempt may issue, returnable on any return day.

The complainant may amend his bill before the defendant appears, or in a small matter afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the defendant shall be

put to any extraordinary costs, such costs shall be paid before the complainant shall be at liberty to amend his bill.

If any defendant shall not appear upon attachment returned executed, or being brought into court upon any such process, shall obstinately refuse to answer, the complainants bill shall be taken pro confesso, and the matter thereof decreed accordingly.

The defendant shall put in his answer, to be filed with the clerk in the office, within three months after his appearance, and bill filed; at the expiration of which time, if no answer shall be put in, the clerk upon request shall issue an attachment, returnable to the next court, and if no answer shall be put in upon the return of such attachment executed, the complainants bill shall be taken pro confesso, and the matter thereof decreed: And if the attachment be returned, not executed, such further process of contempt may issue, as is issuable out of the high court of chancery in England, in like cases.

No process of contempt shall issue without oath made of the service of the subpoena, unless the same shall be returned served by a sworn officer.

Every defendant shall be at liberty to swear to his answer, before any judge or justice of the general court, or before any justice of peace.

When any cross bill shall be preferred, the defendant or defendants, in the first bill shall answer thereto, before the defendant or defendants in the second bill shall be compellable to put in his or their answer to such cross bill.

The complainant shall reply, or file exceptions, within two months after the defendant shall have put in his answer: And if the complainant, at the expiration of that time, shall neither reply, nor file exceptions, the defendant may give the complainant a rule to reply, with the clerk of the court, in the secretary's office, which being expired, and no replication, or exceptions filed, the suit shall be dismissed with costs.

If the complainant's attorney do except against the answer of any defendant, or defendants, as insufficient, he may file his exceptions, and give a rule with the clerk in the office, to make a better answer, within two months, and if before the expiration of such rule the defendant shall put in a sufficient answer, the same

shall be received without Costs: But if the defendant or defendants insist on the sufficiency of the answer, or neglect or refuse to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions, to be argued the next succeeding General Court, and after the expiration of such rule, or any second insufficient answer put in, no further or other answer shall be received, but upon payment of costs.

If any bill shall be dismissed for want of a replication, or other proceedings, the court if they see cause may order the same to be retained upon motion and payment of costs.

And if upon argument the complainant's exceptions shall be over ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, as the case shall be, such costs as shall be allowed by the court.

Upon a second answer adjudged insufficient, costs shall be doubled.

If any defendant shall put in a third insufficient answer, which shall be so adjudged, such defendant shall be examined upon interrogatories, and committed 'till he shall perfectly answer those interrogatories and pay costs.

Upon adjudging any answer insufficient, the complainant may have one subpœna for costs, and another to make a better answer, or one subpœna for costs and to make a better answer, at his election.

If the defendant after process of contempt, put in an insufficient answer; which shall be so adjudged, the complainant shall not be obliged to take out a new subpœna, but may go on to the attachment with proclamation, and other process of contempt, as if no answer had been put in.

That rules to plead, reply, rejoin, and for further proceedings, when necessary, shall be given from month to month, as is herein before directed for rules in proceedings at the common law.

No defendant shall be admitted to put in a rejoinder, unless it be filed within four days after the expiration of the rule to rejoin, but the complainant may proceed to the examination of witnesses.

No rule to rejoin shall be given before a replication shall be filed.

After an attachment with proclamation returned, no plea or demurrer, shall be received, unless by order of court, upon a motion.

If the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the clerk, to be argued; or if he thinks the plea good but not true, he may take issue upon it, and proceed to proofs, giving notice of hearing as aforesaid, and if such plea shall be adjudged false, the complainant shall have the same advantage as if the same plea had been found false by verdict at common law.

If a plea be pleaded, or demurrer put in and over-ruled, no other plea or demurrer shall thereafter be received, but the defendant shall answer the allegations of the bill.

The complainant a month after a plea or demurrer put in, may cause the same to be set down, to be argued, but if the complainant shall not proceed to have the same so set down, before the second court after such plea or demurrer put in, the bill may be dismissed of course, with costs.

Upon a plea or demurrer argued, and over-ruled, costs shall be paid as where an answer shall be judged insufficient, and the defendant shall answer within two months after; but if adjudged good, the defendant shall have his costs.

If any defendant shall obstinately insist on a demurrer, and refuseth to answer, where the court shall be of opinion that sufficient matter is alledged in the bill to oblige him to answer, and for the court to proceed upon, the bill shall be taken pro confesso, and the matter thereof decreed.

Upon any bill filed, and before the defendant puts in his answer, upon oath made, that any of the complainants witnesses are aged, and infirm, or going out of this colony, whereby the complainant thinks he is in danger of losing the benefit of their testimony, the clerk may issue a *dedimus* to take the examination of such witnesses, *de bene esse*, the party taking such *dedimus* giving reasonable notice to the adverse party of the time and place of taking such examination.

Commissions to examine witnesses may be issued by the clerk of the court at any time after replication filed, the party taking such commission giving ten days

notice to the adverse party of the time and place of executing the same.

When any cause shall be at issue, and the examination of witnesses returned, if the complainant shall not within a month thereafter, set down the cause for hearing, with the clerk in the secretary's office, the defendant may have the cause set down at his request, and bring the same to hearing, giving the complainant or his attorney such notice as is herein before directed in cases of trial at common law.

No injunction to be granted for less value than an appeal.

And that no injunction shall be granted from the general court, to stay the proceedings in any suit commenced in the county court, or other inferior court unless the matter in dispute be of value sufficient to admit of an appeal to the general court.

Proviso.
For suits depending before this act

XXIX. *Provided always*, That nothing in this act contained shall extend to any suits or controversies now depending in, or returnable to the general court: But that all writs and other process at the common law, or in chancery, and all suits, appeals, and proceedings whatsoever, issued, granted, or prosecuted at any time before passing this act, and now returnable, or depending in the general court, shall and may be returned, prosecuted, heard, and determined, in the same manner as if this act had never been made.

Where the sheriff and officers attending the court may summon jurors and witnesses and execute the courts commands.

XXX. *And be it further enacted, by the authority aforesaid*, That the sheriff and his officers attending the general court, shall be, and are hereby impowered, during the sitting of the said court, from time to time to summon grand and petit juries, and witnesses, and to execute the commands of the said court, within the city of Williamsburg, or other place where the general court shall be held, and half a mile round the same, and to make return thereof, and such return shall be sufficient for the court to proceed thereon.

Repealing clause.

XXXI. *And be it further enacted, by the authority aforesaid*, That all and every other act and acts, clause and clauses, heretofore made, for or concerning any matter or thing, within the purview of this act, shall be, and are hereby repealed.

Commencement of this act.

XXXII. *And be it further enacted*, That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one.

CHAP. VII.

An Act for establishing county courts, and for regulating and settling the proceedings therein. [From edit. 1752.]

I. **F**OR the better and more expeditious determination of controversies, *Be it enacted by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same,* That in every county of this dominion, a monthly court shall be held, by the justices thereof, at the several respective places already assigned for that purpose, or at such place or places as shall be hereafter lawfully appointed, upon the days herein after limited for each county respectively, and at no other time or place: Which courts shall be called county courts, and consist of eight or more justices of the peace, commissioned by the governor or commander in chief of this dominion, for the time being: Any four of them, one being of the quorum, shall be sufficient to hear and determine all causes depending in the said county courts. County courts.

Justices of peace.

Four of them (one of the quorum) to be a court.

II. *And be it further enacted, by the authority aforesaid,* That every person so nominated and appointed a justice of peace, before his entering upon and executing the said office shall publicly in the court-house of his county, and on a court day, take the oaths appointed, or which shall be appointed to be taken by act of parliament, take and subscribe the oath of abjuration, repeat and subscribe the test, and shall also take the following oaths, to wit, Justices shall be sworn.

The Oath of a Justice of the Peace.

YOU shall swear, that as a justice of peace in the county of _____ in all articles in the commission to you directed, you shall do equal right to the poor and to the rich, after your cunning, wit, and power, and according to law; and you shall not be of counsel of any quarrel hanging before you, and the issues, fines, and amerciaments, that shall happen to be made, and all forfeitures which shall fall before you, you shall cause to be entered, without any concealment or imbeziling; you shall not let, for gift or other causes, but well and truly you shall do your office of a justice of the peace, as well within your county court, as with- Their oath

out; and you shall not take any fee, gift, or gratuity, for any thing to be done by virtue of your office; and you shall not direct, or cause to be directed, any warrant by you to be made, to the parties; but you shall direct them to the sheriff, or bailiffs of the said county, or other the king's officers or ministers, or other indifferent persons, to do execution thereof.

So help you God.

The Oath of a Justice of the county court in Chancery.

Oath of a justice in chancery.

YOU shall swear, that well and truly you will serve our sovereign lord the king, and his people, in the office of a justice in the county court of in chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of this colony and dominion of Virginia, without favour, affection, or partiality.

So help you God.

Executing the office without being sworn, forfeit 300l.

And if any person whatsoever shall presume to execute the office of a justice of peace, without first qualifying himself in the manner by this act before required, he shall, for every such offence, forfeit and pay three hundred pounds current money, one moiety to his majesty, his heirs and successors, towards the better support of this government, and the other moiety to the informer; to be recovered by action of debt in any court of record of this dominion.

County court days.

III. *And be it further enacted, by the authority aforesaid,* That the said county courts shall be constantly held every month, upon the days hereafter specified, for every county respectively, that is to say, for the county of Accomack on the last Tuesday, Albemarle on the second Thursday, Amelia on the fourth Thursday, Augusta on the third Wednesday, Brunswick on the fourth Tuesday. Charles City on the first Wednesday, Caroline on the second Thursday, Elizabeth City on the first Tuesday, Essex on the third Tuesday, Fairfax on the third Tuesday, Frederick on the first Tuesday, Gloucester on the fourth Thursday, Goochland on the third Tuesday, Hanover on the first Thursday, Henrico on the first Monday, James City on the second Monday, Isle of Wight on the first Thursday, King & Queen on the second Tuesday, King William on the third Thursday, King George on the first Thursday, Lancaster on the third Friday, Louisa on the fourth Tuesday,

Lunenburg on the first Tuesday, Middlesex on the first Tuesday, Nansemond on the second Monday, New-Kent on the second Thursday, Norfolk on the third Thursday, Northampton on the second Tuesday, Northumberland on the second Monday, Orange on the fourth Thursday, Princess Ann on the third Tuesday, Prince George on the second Tuesday, Prince William on the fourth Monday, Richmond on the first Monday, Spotsylvania on the first Tuesday, Stafford on the second Tuesday, Surry on the third Tuesday, Warwick on the first Thursday, Westmoreland on the last Tuesday, and York on the third Monday of every month: And every adjournment shall be to the next succeeding court in course, and not otherwise.

Adjournment to court in course.

IV. *Provided nevertheless*, That if the business of any of the said courts cannot be determined on the court day, the justices may adjourn from day to day, until all causes and controversies, then depending before them, shall be heard and determined, or otherwise continued in the manner herein after directed.

But may be adjourned from day to day, till all causes are determined or continued.

V. *And be it further enacted, by the authority aforesaid*, That the justices of every county court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, authority, and jurisdiction, to hear and determine all causes whatsoever, at the common law or in chancery, within their respective counties, except such criminal causes where the judgment upon conviction, shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also, all causes of less value than twenty five shillings current money or two hundred pounds of tobacco, which said causes, under twenty five shillings, or two hundred pounds of tobacco, are hereby declared to be cognizable, and finally determinable by any one justice of the peace, who may give judgment, and thereupon award execution against the goods and chattels of the debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the sheriff or constable to whom directed, in the same manner as other writs of fieri facias are to be executed and returned; but no execution shall be by him granted against the body of the defendant.

Jurisdiction of the court.

Criminal causes touching life or member, and process of outlawry excepted.

Causes under 25s. or 200l. of tobacco, determinable before one justice. But he may not issue execution against the body.

VI. *And be it further enacted, by the authority aforesaid,* That it shall be lawful for any justice of peace, upon complaint to him made by any person, that his debtor is removing out of the county privately, or absconds and conceals himself, so that the ordinary process of law cannot be served upon him, to grant an attachment against the estate of such debtor, or so much thereof as shall be of value sufficient to satisfy the debt and costs of such complainant; which attachment where the debt or demand shall be of the value of twenty five shillings current money, or two hundred pounds of tobacco, or upwards, shall be returnable to the next county court, and directed to, and served by the sheriff, or his under sheriff, unless in cases where the sheriff is a party interested, and then the same shall be directed to and served by a coroner; and it shall be lawful for such sheriff or officer to serve and levy the same, upon the slaves, goods and chattels of the party absconding, wherever the same shall be found, or in the hands of any person or persons indebted to, or having any effects of the party absconding, and to summon such garnishee or garnishees, to appear at the next court to be held for the said county, there to answer upon oath, what he or she is indebted unto such party, and what effects of such party, he or she hath in his or her hands, or had at the time of serving such attachment, which being returned executed, the court may thereupon compel such garnishee to appear, and answer as aforesaid.

Attachment.

How to be directed, executed, and returned.

But bond & security shall be first taken by the justice, and returned to court, otherwise the attachment void.

VII. *Provided always,* That every justice of peace, before granting such attachment, shall take bond and security of the party for whom the same shall be issued, in double the sum to be attached, payable to the defendant for satisfying and paying all costs which shall be awarded to the said defendant, in case the plaintiff, suing out the attachment therein mentioned, shall be cast in his suit, and also all damages which shall be recovered against the said plaintiff, for his suing out such attachment; which bond shall be by the same justice returned to the court to which the attachment is returnable, and the party intitled to such costs or damages, may thereupon bring suit and recover; and every attachment issued without such bond taken, or where no bond shall be returned, is hereby declared illegal and void, and shall be dismissed.

VIII. *Provided also*, That all attachments shall be repleviable by appearance, and putting in good bail, if by the court ruled so to do, or by giving bond with good security, to the sheriff or other officer serving the same, which bond the sheriff or other officer is hereby impowered and required to take, to appear at the court to which such attachment shall be returnable, and to abide by, and perform the order and judgment of such court.

IX. *And be it further enacted, by the authority aforesaid*, That upon the defendant or defendants replevying any attached effects, by giving bond and security to the sheriff, or other officer, as aforesaid, the sheriff shall return the name of the security by him so taken, and if such security shall be adjudged insufficient by the court, and if the defendant shall fail to appear and give special bail, if thereunto ruled by the court, such sheriff and security, shall be subject to the same judgment and recovery, and have the same liberty of defence and relief, as if such security had been taken upon the execution of mesne process.

X. *And be it further enacted, by the authority aforesaid*, That it shall be lawful for any creditor, where his debt doth not exceed five pounds current money, or one thousand pounds of tobacco, to go before any justice of peace of the county where his debtor resides, and make oath, how much is justly due to him, and that he has grounds to suspect, and verily believes, that such debtor intends to remove his effects; and thereupon such justice shall issue an attachment against the estate of such debtor, returnable to his next county court, directed to all sheriffs and constables within the colony of Virginia; and by virtue thereof, it shall be lawful, as well for the sheriff, or any constable of the county where such attachment shall be obtained, as for the sheriff or any constable of other counties, to pursue and seize such effects, and to make return of such attachment to the court where the same shall be returnable, and thereupon such proceedings shall be had, without a petition, as in other cases of attachment.

XI. *And upon complaint made to a justice of peace*, that any person indebted to the complainant, in any less sum than twenty five shillings current money, or two hundred pounds of tobacco, is removing out of the

Attachments repleviable by appearance & bail, or security for appearance.

Rules, where security is taken for appearance.

Method of prosecuting attachments for 5l. or 1000l. of tobacco, or under.

Where under 25s. or 200l. of tobacco.

county privately, or so absconds or conceals himself that a warrant cannot be served upon him, it shall be lawful for such justice, taking bond and security, as in this act is before directed, to grant an attachment against the estate of such debtor, or so much thereof as shall be of value sufficient to satisfy the debt and costs of the party praying such attachment, directed to the sheriff or any constable of his county, and returnable before himself, or any other justice thereof, who shall and may proceed thereupon, as upon an attachment returnable to the county court.

Where the attachment is not replevied, the plaintiff shall have judgment.

Judgment against garnishee.

XII. And if any attachment, returnable to the county court, or before a justice of peace, shall be returned executed, and the goods or effects attached shall not be replevied as this act directs, the plaintiff shall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached, and not replevied as aforesaid, shall be sold and disposed of for and towards satisfaction of the plaintiff's judgment, in the same manner as goods taken in execution upon a writ of *fieri facias*: And where an attachment shall be returned, served in the hands of any garnishee, it shall be lawful, upon his or her appearance and examination, in the manner by this act before directed, to enter up judgment, and award execution against every such garnishee, and garnishees, for all sums of money or tobacco, due from him, her, or them, to the person absconding, or in his, her, or their custody or possession, for the use of such person, or so much thereof as shall be of value sufficient to satisfy the debt and costs of the complainant: And all goods and effects whatsoever, in the hands of any garnishee or garnishees, belonging to such absconding person, shall be liable to satisfy such judgment.

Method of issuing, executing, and returning process.

XIII. And be it further enacted, by the authority aforesaid, That all original process, by writ, summons, petition, or any other manner or means, and all subsequent process thereupon, to bring any person or persons to answer, in any action, real, personal, or mixed, suit, information, bill, or plaint, in any county court, and all attachments awarded by the said courts, at the common law, and all subpoenas, attachments, and other process in chancery, shall be issued and bear teste, by the clerk of every county court respectively,

returnable to the next succeeding court, and shall be executed three days at least, before the day therein mentioned for the return thereof; and if any process shall be delivered to the sheriff or officer, so late that he cannot execute the same three days before the return day, such process shall not be executed, but the officer shall return the truth of the case; and if any original process be taken out within three days before the next court day, such process shall be returnable to the next court after the said three days, and not otherwise; and all process issued or returnable in other manner, than is herein before directed, shall be null and void.

XIV. *Provided nevertheless,* That any justice or Criminal ca-
justices of the peace, by his or their warrant, may sesexcepted:
cause any traitor, felon, pirate, rioter, breaker of the
peace, or other criminal offender to be apprehended
and brought before the same, or some other justice or
justices, or before the next county court, altho' there
be not three days between the execution of such war-
rant, and the return thereof.

XV. *And be it further enacted, by the authority a-* Process a-
foresaid, That process against any member of his gainst acoun-
majesty's council, or the sheriff of any county, with- cillor orsher-
in this colony; and the proceedings thereupon, shall iff, as in gen-
be after the same manner in the county court as in the eral court.
general court.

XVI. *And be it further enacted, by the authority a-* Bail.
foresaid, That upon executing any process, where-
upon bail shall be requirable, the sheriff shall return
therewith the names of the bail by him taken; and if
he shall not return bail, or the bail returned shall be
judged insufficient by the court, or the defendant shall
fail to appear, or to give special bail, when ruled there-
to by the court, such sheriff or bail shall be subject to
the same judgment and recovery, and shall have the
same liberty of defence, relief and remedy, as in like
cases is by law provided in suits depending in the ge-
neral court.

XVII. And that upon appearance of the defendant
in any personal action, where the plaintiff shall move, Special bail.
that the defendant may be held to special bail, the
court may, if they see cause, rule him to give bail ac-
cordingly, or commit him in custody of the sheriff till
such bail be given; and the person and persons, be-

coming special bail, shall be liable to the judgment and recovery against such defendant, unless he render his body in execution in discharge of his bail.

No bail in
prosecutions
upon penal
laws.

Process
where the
defendant is
not found.

Provided always, That no special bail shall be requirable in any suit brought upon a penal law, unless by such law, bail shall be expressly directed.

XVIII. And for the better ascertaining what process may be sued out where the sheriff returns, that the defendant is not to be found in his bailiwick, *It is hereby further enacted by the authority aforesaid*, That where any sheriff shall make such return, the plaintiff or plaintiffs, in any civil action, shall, and may sue out an attachment against the estate of such defendant, returnable as herein before is directed for the returns of original and other subsequent process, thereupon to force an appearance, or an *alias*, or *pluries cupias*, at the election of the plaintiff or plaintiffs, and if the sheriff shall return any goods by him attached, the plaintiff shall file his declaration, and be intituled to a judgment for his whole debt, and the goods so attached shall remain in custody of the sheriff 'til such judgment obtained, and then be sold and disposed of in the same manner as goods taken in execution upon a writ of *feri facias*; and if the judgment shall not be satisfied by the goods attached, the plaintiff may have an execution for the residue.

Provided always, That all goods so attached shall and may be replevied by the defendants giving bond and security, to the sheriff or other officer, attaching the same, in like manner as by law is directed on the execution of mesne process, or by the defendants appearance, and putting in good bail, if ruled by the court to give special bail.

Rules in pro-
ceedings at
the common
law.

Non-suit.

XIX. And for the regular prosecution and determination of suits, entering up the judgments, and preservation of the records, *It is hereby further enacted*, That the following rules and methods shall be observed, to wit, that the plaintiff or demandant in any suit shall file his declaration before or at the first calling of the cause in court, and that no incipitur shall be filed or received in lieu of a declaration

That if the plaintiff or demandant fails to file his declaration, or to appear and prosecute his suit, he shall be non-suit.

That upon every non-suit five shillings shall be paid, ^{5s. & Costs.} besides costs of suit.

That every defendant or tenant shall file his plea in writing, and if he fails so to do, judgment shall be given against him for want of a plea; but no plea in abatement, or of *non est factum*, shall be received or admitted in any cause depending in any county court, unless the party offering the same shall by affidavit, prove the truth thereof. and the plaintiff in replevin, or the defendant in any other action, may plead as many several matters as he shall think necessary for his defence, so as they be not admitted to plead and demur to the whole.

That in every cause unless brought by petition, if the plaintiff recovers, or is non-suit or where his suit shall be dismissed, or judgment passed for the defendant, the court shall allow in the bill of costs, fifteen ^{Lawyer's fee;} shillings; or one hundred and fifty pounds of tobacco, for an attorney's fee, if the party employed one, except ^{Exceptions} against executors or administrators, or where the plaintiff may not recover more costs than damages.

That in all cases where a fine is laid upon the members of any vestry, one action may be brought against ^{Suits against vestries.} them all jointly.

That the clerk of the court do carefully preserve the ^{Rules of court.} declarations, pleas, evidences, and all other papers relating to any cause in court, and that they be all filed together in the office.

That in all cases where the title or bounds of any estate in land is determined, the pleadings shall be all in writing, and shall be entered at large, with the judgment thereupon, in particular books kept for that purpose only.

And that for preventing errors in entering the judgments of the court, the justices, before every adjournment, shall cause the minutes of their proceedings to be publickly read, by the clerk, and corrected where necessary, and then the same shall be signed by the first justice in commission then sitting, which minutes so signed shall be taken in a book, and carefully preserved among the records, and no proceedings or judgments of any court shall be of force, or valid, until the same be so read and signed.

Suits shall not abate for want of form.

Costs upon plea in abatement over-ruled.

Method of recovering debts of 25s. to 5l. by petition.

Plaintiff proceeding otherwise, shall be non-suit.

Rules in suits brought by petition.

XX. And for prevention of delay and vexation, by dilatory pleas; *It is hereby further enacted*, That in all personal actions; where the declaration shall plainly set forth sufficient matter of substance for the court to proceed upon the merits of the cause, the suit shall not abate for want of form: And that where a plea in abatement shall be pleaded, in any action, and upon argument the same shall be adjudged insufficient, the plaintiff or plaintiffs in such action shall recover against the defendant or defendants full costs, to the time of over-ruling such plea, including the costs of that court, a lawyer's fee only excepted.

XXI. *And be it further enacted, by the authority aforesaid*, That for the more speedy recovery of small debts, it shall be lawful for the justices of any county court to hear and determine all suits brought for any debt or demand, due by judgment, obligation, or account, for any sum or sums of money, or tobacco, of the value of twenty five shillings current money, or two hundred pounds of tobacco, and not exceeding five pounds of like money, or one thousand pounds of tobacco, by petition, without the solemnity of a jury; and the said justices are hereby authorised and required, and shall have full power and authority so to do, and to award execution thereupon: And where the demand shall not exceed the said last mentioned sums, the plaintiff shall proceed by petition, in the manner by this act directed, and not otherwise: And if any plaintiff shall demand a greater sum, on purpose to evade this act, he shall be non-suit, and pay costs: And that the said method of proceeding shall be in a summary way, to wit,

The petition shall express, whether the debt arises by judgment, obligation, or other specialty, or by account, and if by account, the same shall be filed together with the petition.

Upon filing any such petition in the clerk's office, a summons of course shall be issued, under the hand of the clerk, returnable to the next court, a copy of which, together with a copy of the petition, and of the account, where the demand is upon an account, shall be delivered to the defendant or left at his or her usual place of abode, ten days at least before the next succeeding court, and the same being returned executed,

by a sworn officer, or oath made of the due service thereof, if the defendant do not then appear, it shall be lawful for the said justices to hear and examine into the truth of the matter complained of, and to determine the cause upon the evidence produced, or to dismiss the petition, as to them shall seem just; and if the defendant do appear upon such summons, he shall forthwith put in such answer, or plea, thereto, as will bring the matter of complaint in issue, and thereupon, or if he fails to plead, the court shall instantly proceed to hear and determine the cause in a summary way, upon such evidence as shall be given, and shall give judgment according as the very right of the cause and matter in law shall appear unto them, without regard to form, or want of form, in the process, petition, or course of proceeding, so as sufficient matter be set forth, whereupon the court may give judgment according to the very right of the cause; in which proceedings the defendant shall have benefit of all matters in his defence that he might have had if he had been sued in the ordinary forms of law: And the court shall not admit of any delay, in the determination of any suit brought by petition, till another court, unless good cause be made appear for such delay: But where the penalty of any bond or obligation for debt shall exceed five pounds current money, or one thousand pounds of tobacco, and shall be put in suit, the same shall be brought and prosecuted by action at the common law, and not by petition altho' part of the principal be paid before suit brought: And when any such petition shall be filed within less than ten days before the court day next following the filing thereof, the summons thereupon shall be made returnable to the next court held after the expiration of ten days: And the same being return'd executed, or oath made of the due service thereof, as aforesaid, the proceedings thereupon at the return day, shall be in like manner as before directed: And that upon every judgment given upon any such petition, if the defendant resides in another county than where the debt was contracted, or if the creditor, or plaintiff, shall be unable to attend the court in person, or where the defendant is sued out of his county and recovers costs against the plaintiff, in any such case, if a lawyer shall be employed, the clerk shall tax, in the bill of costs, seven shillings and six pence,

The court shall not admit of delay.

Bonds for more than 5l. penalty shall be prosecuted by action at common law. Summons issued within 10 days before the next court day, shall be returnable to the court next after.

Lawyer's fee.

for a lawyer's fee, and no more, except against executors or administrators.

Detinue, and trover, under 5l. value, shall be brought by petition.

XXII. And for preventing expence and delay in prosecuting actions of detinue, or trover, for any thing under the value of five pounds, *Be it further enacted by the authority aforesaid,* That where any person intituled to an action of detinue, or trover shall set forth the value of the thing demanded to be under that sum, in a petition to any county court, a summons shall issue, and the court shall hear and determine the same in the method by this act directed for the recovery of small debts; and if in any such action the plaintiff shall declare for any thing of less value than five pounds, exclusive of damages, he shall be non-suit.

Rules in penal suits not exceeding 5l. or 1000l. tobacco.

XXIII. And for the easier, speedier, and better advancement of justice, in obtaining judgments in any suit or action brought upon any of the penal laws of this colony, where the penalty sued for shall not exceed five pounds current money, or one thousand pounds of tobacco, *Be it further enacted by the authority aforesaid,* That where any demurrer shall be joined and entered in any such suit or action, in any court of record of this dominion, the judges shall proceed and give judgment according to the very right of the cause, and as the matter in law shall appear unto them, without regarding any imperfection, omission, or defect in any writ, return, plaint, declaration, information, or other pleading, process, or course of proceeding whatsoever, except those only which the party demurring shall specially and particularly set down and express, together with his demurrer, as causes of the same, notwithstanding such imperfection, omission, or defect might have heretofore been taken to be matter of substance, so as sufficient matter appear in the said pleadings, upon which the court may give judgment according to the very right of the cause: And that if any verdict shall be given in any such action, or suit in any court of record of this dominion, the judgment thereupon shall not be stayed, or reversed, for or by reason of any default in form, or want of form, in any writ original or judicial, or by reason of any imperfect or insufficient return of any sheriff, or other officer, nor for any insufficient pleading, or mis-joining the issue, nor for any matter of the like nature; nor shall any judgment given on any verdict in such suit, or action be reversed for

any the defects or causes aforesaid, any law, statute, or usage to the contrary notwithstanding.

XXIV. *And be it further enacted, by the authority aforesaid,* That no process depending in any county court, shall be discontinued for or by reason of the justices failing to hold court, upon the day by law appointed; but in such case, all suits, process, matters, and things depending, shall stand continued, and all returns and appearances shall be made, to the next succeeding court in course, in the same manner as if such succeeding court had been the same court to which such process stood continued, or such returns or appearances should have been made: And all recognizances, bonds, and obligations, for appearance, and all returns, shall be of the same force and validity, for the appearance of any person or persons at such succeeding court, and all summonses for witnesses as effectual, as if the next succeeding court had been expressly mentioned therein: And all causes depending upon the docket, and undetermined at any adjournment to the court in course, shall stand continued in the same order to such court, without any fee to the clerk for the continuance of such as shall not then be called over.

Suits shall not be discontinued by the justices failing to hold court.

XXV. *And be it further enacted, by the authority aforesaid,* That in all suits in the county courts in chancery, the following rules and methods shall be put in practice and observed, to wit,

The complainant shall file his bill on the return day of the subpoena or upon the first appearance of the defendant.

Rules in chancery.

That upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the defendant shall recover his costs.

The complainant may amend his bill before the defendant appears, or in a small matter afterwards, without paying costs, but if he amend, after appearance, and in a material point, whereby the defendant shall be put to any extraordinary costs, such costs shall be paid before the complainant shall be at liberty to amend his bill.

If any defendant shall not appear upon attachment returned executed, or being brought into court upon any such process, shall obstinately refuse to answer the

complainant's bill, such bill shall be taken *pro confesso*, and the matter thereof decreed accordingly.

The defendant shall file his answer at the next court after his appearance, and bill filed, and if no answer be then put in, an attachment shall be awarded, returnable to the next court, and if no answer be put in upon return of the attachment executed, the complainant's bill shall be taken *pro confesso*, and the matter thereof decreed.

And if the attachment be returned not executed, an attachment with proclamation shall be issued, and if upon the return thereof no answer shall be put in, the complainant's bill shall be taken *pro confesso*, and the matter decreed as aforesaid.

No process of contempt shall issue without oath made of the service of the subpoena, unless the same be returned served, by a sworn officer.

Every defendant shall be at liberty to swear to his answer before any justice of peace.

When any cross bill shall be preferred, the defendant or defendants in the first bill shall answer there-to, before the defendant or defendants in the second bill shall be compellable to put in his or their answer to such cross bill.

The complainant shall reply, or file exceptions, at the next court after the defendant's putting in his answer, and if the complainant shall not then reply, nor file exceptions, his bill shall be dismissed with costs.

When the complaint files exceptions against the answer of any defendant, or defendants, as insufficient, if the defendant puts in a sufficient answer at the next court, the same shall be received without costs: But if the defendant's attorney insists on the sufficiency of the answer put in, and neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions, to be argued the next court, and after exceptions so filed, or any second insufficient answer put in, no further or other answer shall be received, but upon payment of costs.

And if upon argument the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, as the case shall be, such costs as shall be allowed by the court.

Upon every second or third answer adjudged insufficient, costs shall be doubled.

If any defendant shall put in a fourth insufficient answer, which shall be so adjudged, such defendant shall be examined upon interrogatories, and committed, 'til he shall perfectly answer those interrogatories and pay costs.

If the defendant after process of contempt put in an insufficient answer, which shall be so adjudged, the complainant shall not be obliged to take out a new subpoena, but may go on to the attachment with proclamation, as if no answer had been put in.

Where the complainant conceives sufficient matter to be confessed, by the defendant's answer, he may set down the cause for and proceed to hearing.

No defendant shall be admitted to put in a rejoinder, unless it be filed at the next court after replication put in, but the complainant may proceed to the examination of witnesses.

After an attachment with proclamation returned, no plea or demurrer shall be received, unless by order of court, upon motion.

If the complainant conceives any plea or demurrer to be naught, either for the matter, or manner of it, he may set it down, to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to proofs; and if such plea shall be adjudged false, the complainant shall have the same advantage as if the same plea were found false by verdict at the common law.

If a plea be pleaded, or demurrer put in, and overruled, no other plea or demurrer shall thereafter be received, but the defendant shall answer the allegations of the bill.

The complainant, at the next court after a plea or demurrer put in, may have the same set down, to be argued, but if the complainant shall not proceed to have the same so set down, at the second court after plea or demurrer put in, the bill may be dismissed of course, with costs.

Upon a plea or demurrer argued and overruled, costs shall be paid as where an answer shall be adjudged insufficient, and the defendant shall answer at the next court; but if adjudged good, the defendant shall have his costs.

If any defendant shall obstinately insist on a demurrer, and refuseth to answer, where the court shall be of opinion that sufficient matter is alledged in the bill to oblige him to answer, and for the court to proceed upon, the bill shall be taken pro confesso, and the matter thereof decreed accordingly.

Rules for
witnesses.

Commissions to examine witnesses may be awarded by the court, after replication filed, the party taking out such commission giving the adverse party ten days notice of the time and place of executing the same.

After any bill filed, and before the defendant puts in his answer, upon oath made, that any of the complainants witnesses are aged, and infirm, or going out of this colony, whereby the complainant thinks he is in danger of losing the benefit of their testimony, the clerk may issue a dedimus to take the examination of such witnesses, de bene esse, giving the defendant reasonable notice, so as to be valid if the complainant has not an opportunity to take their examination in the ordinary course of proceedings.

When any cause shall be at issue, and the examination of witnesses returned if the complainant shall not at the next court thereafter, set down the cause for hearing; the defendant may have it set down at his request.

Summons for
witnesses.

XXVI. And for better discovery of the truth in any matter whatsoever, depending before the county court, *Be it further enacted, by the authority aforesaid,* That the clerk of every county, shall and may, and is hereby authorised and impowered, upon request of either party, to issue one or more summons or summonses for any person or persons to attend as witnesses in any cause or matter depending before the county court, or upon any survey of land, which shall be by the court ordered to be made, expressing in every summons the time and place where the witnesses are to appear, the names of the parties to the suit or cause wherein they are to give evidence, and at whose request they are summoned; and if any witness shall be an inhabitant of another county, the clerk shall issue summons, which may be directed to the sheriff, or any coroner of that county, where such witness or witnesses live, or usually reside which shall be by such officer executed and returned to the office whence the same issued.

Their allow-
ance.

And that every person summoned to appear at any county court, or upon any survey of land, as a witness,

and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, twenty five pounds of tobacco for every day's attendance upon such summons; and every person residing in, and summoned out of another county, shall have the said allowance of twenty five pounds of tobacco per day, for attendance, and be paid for travelling and ferriages, to and from court, as witnesses in the general court, to be paid by the party summoning him or her, which said several allowances for attendance, shall be ordered by the court, upon motion and a copy thereof issued by the clerk at any time, upon request: And if any person, summoned as aforesaid, shall fail to attend accordingly, he or she, so failing, shall be fined by the court, to the party at whose suit such summons issued, three hundred and fifty pounds of tobacco, and shall also be liable to the action of such party, at the common law, for his or her damages; but if the person so failing, shall, at the court to which the summons shall be returnable, or at the next succeeding court, shew sufficient cause of his or her inability to attend at the time he or she ought to have appeared, then no fine or forfeiture shall be incurred by such failure.

Penalty, if they fail to attend.

And that every witness during the time of his or her coming to, attending, or returning from the court, shall be privileged and free from arrest or imprisonment, in the same manner as witnesses summoned to the general court.

Privilege from arrests, &c.

And where any witness shall be aged, infirm, or going out of this colony, upon oath thereof made, the clerk upon request of either party, may issue a *dedimus*, to take the examination of such witnesses, in the same manner, and with such notice, as such commissions may be issued, executed and returned, in proceedings in the general court.

XXVII. And for the more regular granting appeals from any county or inferior court, to the general court, *Be it further enacted, by the authority aforesaid,* That no appeal shall be allowed for reversing any judgment or decree, given in any county court, or inferior court of record, within this dominion, in any action or suit whatsoever, at common law, or in chancery, where the debt, or damage, or other matter recovered in such

Appeals.

Not grantable where the debt or damage, does not exceed 10l. or 2000l. tobacco, exclu-

sive of costs,
except in ti-
tles or bounds
of lands.

action or suit, exclusive of the costs, shall not exceed ten pounds current money, or two thousand pounds of tobacco, or the value thereof, unless in such suit, the title or bounds of lands shall be drawn in question.

And that in all cases above the value last mentioned, or where the title or bounds of lands shall be affected, or controverted, any party or parties, conceiving him, her, or themselves aggrieved by the judgment or decree of any county court, or other inferior court, may pray an appeal to the general court, which shall be granted in manner following, and not otherwise, to wit,

Defendant,
or tenant, be-
ing appel-
lant shall
give bond
and security.

If the defendant, or tenant, prays an appeal, he shall give bond with good security, for prosecuting his appeal with effect, and to perform the judgment of the general court, and to pay damages to the appellee, if the judgment or decree of the county court, or other inferior court be affirmed.

Rules where
the plaintiff
appeals.

And if the plaintiff or demandant appeals, then the special bail, given by the defendant or tenant, in the county or inferior court, shall also stand bound to answer the judgment of the general court; and such appellant shall give bond with security, in the sum of twenty pounds current money, that he will prosecute his appeal with effect; and if he do not appear and prosecute the same, his bond shall be forfeited to the defendant or appellee.

Certiorari.

XXVIII. *And be it further enacted, by the authority aforesaid,* That no writ or writs of *certiorari* shall be received or allowed, by the justices of any county court, or other inferior court, or to whom any such writ or writs shall be directed and delivered, after issue or demurrer joined, in the cause or causes depending in such court or courts, and intended to be removed by such writ or writs, but they shall and may proceed in such cause or causes, as tho' no such writ had been sued forth or delivered to them, or any of them: And if any cause be removed or stayed by such writ, and afterwards the same cause shall be remanded, or sent back again, by any writ of *procedendo*, or other writ whatsoever, such cause shall never afterwards be removed, or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from the general court, or secretary's office.

XXIX. *And be it further enacted, by the authority aforesaid,* That no justice of peace, sberiff, under sheriff, or clerk of any county court, shall appear or plead as attorney, for any person or persons whatsoever, in the court of the county whereof he is a member, officer, or clerk, except only as general attorney for any person or persons not residing or being within this colony, under penalty of being fined by such court, in the sum of ten pounds current money for every such offence, to the use of the same county, towards lessening the levy thereof.

No justice or officer, shall appear as attorney in the court whereof he is a member, or officer, except for persons not in this colony. Penalty 10l.

XXX. *And be it further enacted, by the authority aforesaid,* That from time to time, for ever hereafter, the court of every county of this dominion, shall cause to be erected, and kept in good repair, or where the same shall be already built, shall maintain and keep in good repair, within each respective county, and at the charge of such county, one good and convenient court-house, of stone, brick, or timber, and one common goal, and county prison, well secured with iron bars, bolts, and locks, and also, one pillory, whipping-post, and stocks; and where land shall not be already provided and appropriated for that purpose, such court may purchase two acres, whereon to erect the said public buildings, for the use of their county, and for no other use whatsoever: And to every court-house already erected and established, two acres of the land built upon and adjacent thereto, not having any house, orchard, or other immediate conveniences thereon, shall be and remain appropriated to such court-house, and the fee simple thereof is hereby declared to be in the court of the same county, and their successors, to the use of such county, as aforesaid; but where a court house is already built in any city, or town, the land now laid off for the same, and other the public buildings, shall be judged and held to be sufficient: And if the justices of any county court shall at any time hereafter fail to keep and maintain a good and sufficient prison, pillory, and stocks, every member of the court so failing shall forfeit and pay five hundred pounds of tobacco, one moiety to the king, his heirs and successors, for the better support of this government, and the contingent charges thereof, the other moiety to the informer, to be recovered with costs by action of debt or information, in any court of record of

Court houses and public buildings shall be erected & kept in repair.

Penalty on failure of keeping a sufficient prison, &c.

this dominion; and moreover, the court so failing shall be liable to the action of the sheriff, from time to time, for all damages recovered against him, upon any escape, for want of a sufficient prison, and such sheriff, or his executors or administrators, shall and may sue for the same by action of debt or information, brought in the general court against the justices so failing, or the survivors of them; and upon recovery in such suit, the judges of the said court are hereby impowered, and required, to proportion how much every particular justice of the court so failing, who shall be then living, and the executors or administrators of such as shall be deceased, shall pay respectively, and to enter up judgment accordingly, whereupon one or more executions shall and may be issued.

Prison rules.

XXXI. And that the justices of every county shall be, and they are hereby impowered and required, to mark and lay out the bounds and rules of their respective county prisons, not exceeding ten acres of land, adjoining to such prison, which marks and bounds shall be recorded, and renewed from time to time, as occasion shall require: And every prisoner, not committed for treason, or felony, giving good security to keep within the said rules, shall have liberty to walk therein, out of the prison, for the preservation of his or her health, and keeping continually within the said bounds shall be adjudged in law a true prisoner: And if the court of any county shall at any time think fit, they are hereby authorised and impowered, at the charge of their county, to cause a ducking-stool to be built in such convenient place as they shall direct.

Ducking-stool.

Repealing clause.

XXXII. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this act, shall be and are hereby repealed.

Commencement of this act.

XXXIII. *And be it further enacted, by the authority aforesaid,* That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one.

CHAP. VIII.

An Act to prevent frivolous and vexatious suits.

[From edit.
1752.]

I. **F**OR relief of his majesty's good subjects against causeless and vexatious suits, and for the better enabling them to recover their just rights: Preamble.

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses of this present General Assembly, and it is hereby enacted, by the authority of the same, That* Actions.
in all actions of assault and battery, and slander, commenced and prosecuted in the general court, if the jury find under the sum of five pounds, and in the like actions, commenced and prosecuted in any county court, if the jury find under forty shillings, the plaintiff, in either case, shall not recover any costs. Where the plaintiff shall not recover costs.

III. And in all actions of trespass, and all other personal actions, where the court before whom the trial shall be, shall not be satisfied, and enter upon the record, that the freehold, title, or interest of land, mentioned in the plaintiffs declaration, was or might have been in question, or that the trespass was wilful, or malicious, if the jury find under forty shillings, the plaintiff shall not recover more costs than damages: Where no more costs than damages.
And if more costs are awarded, the judgment shall be void, and shall be amended, upon a motion at any time by the court who awarded the same, and the party injured shall be redressed, as to such costs so wrongfully awarded, in case the same be levied upon him: Remedy where more costs shall be awarded.
And where several persons shall be made defendants, in any action of trespass, assault, false imprisonment, or ejectment, and upon the trial thereof, any one or more of them shall be acquitted by verdict, every defendant so acquitted, shall have and recover his costs of suit, in like manner as if the verdict had been given against the plaintiff or plaintiffs, and acquitted all the defendant's, unless the court before whom such cause shall be tried, shall be satisfied, that there was reasonable cause for the making such person or persons, defendant or defendants to such action, and shall order it otherwise; and in all cases where judgment shall be given for the defendant, he shall recover his costs against the plaintiff, and have execution for the same. Where the defendant shall have his costs.

Exceptions,
as to execu-
tors, or ad-
ministrators

Where suit
shall not a-
bate upon
the death of
either party
or parties.

IV. *Provided always*, That nothing herein contained shall be construed to extend to executors, or administrators, in such cases where by the law they are not liable to the payment of costs of suit.

V. *And be it further enacted, by the authority aforesaid*, That in all actions where the plaintiff shall die after an interlocutory judgment, and before final judgment obtained therein, such action shall not abate if the same might be originally prosecuted or maintained by the executors or administrators of such plaintiff, and if the defendant die after such interlocutory judgment, and before final judgment, such action shall not abate if the same were originally maintainable against the executors or administrators of such defendant; but the plaintiff, or if he be dead after such interlocutory judgment, his executors or administrators, shall and may have a *scire facias* against the defendant, if living after such interlocutory judgment, or if he died after, against his executors or administrators, to shew cause why damages in such action should not be assessed and recovered by the plaintiff or plaintiffs; and if such defendant, or his executors or administrators, shall appear at the return of such writ, and not shew or alledge any matters sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias* it be returned, that the defendant, or his executors or administrators had nothing whereby to be summoned, or could not be found in the county, shall make default, a writ of inquiry of damages shall be thereupon awarded, which being executed, judgment final shall be given for the said plaintiff, his executors or administrators, prosecuting such writ or writs of *scire facias*, against such defendant his executors or administrators; and if there be two or more plaintiffs, or defendants, and one or more of them should die, if the cause of action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall proceed, at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants; and in all actions, real, personal, and mixed, if either party shall die between verdict and judgment, such death shall not be pleaded in abatement, but judgment shall be entered as if both parties were living.

VI. *And be it further enacted, by the authority aforesaid,* That in all actions upon any bond, or on any penal sum for non performance of covenants, or agreements, in any indenture, deed, or writing contained, the plaintiff or plaintiffs may assign as many breaches as he or they shall think fit, and the jury, upon trial of such action or actions, shall and may assess damages for such of the breaches as the plaintiff shall prove to have been broken, and on such verdict the like judgment shall be entered as heretofore has been usually done in such actions; and where judgment on a demurrer, or by confession, or *nihil dicit*, shall be given for the plaintiff, he may assign as many breaches of the covenants, or agreements, as he shall think fit, upon which a jury shall be summoned, to enquire of the truth of every one of those breaches, and to assess the damages the plaintiff shall have sustained thereby, and execution shall issue for so much; and such judgment shall remain as a security to the plaintiff his executors and administrators, for any other breaches which may afterwards happen, and he or they may have a *scire facias* against the defendant, and assign any other breach, and thereupon damages, shall be assessed and execution issued as aforesaid; and in all actions which shall be brought upon any bond or bonds, for payment of money, wherein the plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and interest due thereon, and the other costs of suit, and execution shall issue accordingly; or if before judgment, the defendant shall bring into court the principal and interest due upon such bond, he shall be discharged, and in that case judgment shall be entered for the costs only: And in any action of debt on single bill, or in debt, or *scire facias* upon a judgment, or in debt upon bond, if before action brought, the defendant hath paid the principal and interest due by the defeasance or condition, he may plead payment in bar.

Rules in actions for non performance of covenants.

Actions upon bonds for payment of money.

Debt.

VII. *And be it further enacted, by the authority aforesaid,* That all powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever within this colony, before action brought, shall be, and are hereby de-

Powers of attorney to confess judgment and release of error, before suit brought, void.

Attorney appearing under such power, forfeits 500l. and liable for damages.

clared to be absolutely null and void; and if any attorney, or other person practising as an attorney, shall presume to appear under such power, for any defendant, in any court of record within this dominion, such attorney, shall for every such offence, forfeit and pay five hundred pounds current money, to such defendant for his own use, to be recovered with costs by action of debt or information, in any court of record, and moreover, shall be liable to an action for damages, at the suit of the party grieved.

Attorney for any person out of this dominion shall give security.

VIII. *And be it further enacted, by the authority aforesaid,* That when any process shall be sued forth or any suit, either in law or equity, commenced and prosecuted in any court of record, or before any judge or magistrate within this colony, by virtue of any letter or warrant of attorney, or letter or warrant of substitution, or by virtue of any other deputation or power, from any person or persons residing in other parts than within this dominion, against any person or persons inhabiting here, the person suing forth such process, or commencing or prosecuting such suit, at his first appearance, or at any time thereafter, when required, shall give good and sufficient security with the clerk of the general court, or in the court where such process shall be sued out, or suit depending, to satisfy and pay to the party prosecuted, all such damages, costs and charges, as upon the same suit shall be awarded to him, her or them, by the court judge or magistrate, before whom the suit shall be heard and determined; and if such attorney shall fail to give such security, being thereunto required, the suit shall be dismissed, and the defendant shall have judgment for his costs, against such attorney, and may take execution thereupon; and moreover, such attorney shall be liable to the secretary, county court clerk, and sheriff, or other officer, for their respective fees, to be levied upon his estate, in the same manner as officer's fees are by law directed to be levied and paid, and also to all witnesses in such suit, for their respective allowances.

Failing so to do liable for all the costs of suit.

Rules upon entering injunctions in chancery.

IX. *And be it further enacted, by the authority aforesaid,* That before any injunction in chancery shall be granted to stay proceedings at law, in any action, suit or judgment whatsoever, in any court of record in this colony, if the court shall not be otherwise satisfied with

the matter of equity, the party praying such injunction shall make oath, before the court, or before some magistrate, of the truth of the allegations of his injunction bill, which affidavit shall be certified at the foot of the bill, and he, she, or they, shall moreover enter into bond with one or more sufficient securities, in the clerk's office, for satisfying and paying all such sums of money and tobacco, and costs, which shall be then due, or become due to the plaintiff or plaintiffs, in the action, suit, or judgment so to be stayed, and also for the payment of such costs, as shall be awarded against him, her, or them, in case the injunction shall be dissolved.

X. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, clause and clauses, heretofore made, for or concerning any matter or thing within the purview of this act, shall be, and are hereby repealed. Repealing clause.

XI. *And be it further enacted,* That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one. Commencement of this act.

CHAP. IX.

An Act for Limitation of Actions, and avoiding of Suits.

I. **F**OR avoiding law suits, *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That all actions upon the case, other than for slander, actions for account, other than between merchant and merchant, their factors or servants, actions of trespass, debt, detinue, replevin, and trespass for breaking the close, shall be brought within five years next after cause of such action accrued, and not after; actions of trespass, for assault, battery, wounding, or imprisonment, within three years, and actions upon the case for words, within one year after the words spoken, and not afterwards. [From edit. 1752. This act was repealed by proclamation. See note to chap. 2.]
Actions to be brought within 5 years.
Three years.
One year.

Persons under legal disabilities, excepted.

II. *Provided always*, That if the party intituled to such action, be under the age of twenty one years, feme covert, non compos mentis, imprisoned, or out of this colony, at the time of action accrued, such person may bring suit within the respective times herein before limited, after such disabilities removed; and where in any of the actions or suits aforesaid, judgment shall be given for the plaintiff, and afterwards reversed by a writ of error, or if a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment it be given against him, and that he take nothing by his plaint, writ or bill: Or if any such action be brought by original, and the defendant thereupon outlawed, and afterwards reverse the outlawry, in any such case the plaintiff, his heirs, executors, or administrators, may commence new action or suit, from time to time, within one year after judgment so reversed or given against him, or outlawry reversed, and no longer.

In what cases one year longer may be allowed.

But persons absconding, or removing, &c. may not plead this act.

III. *Provided also*, That where any defendant shall abscond, or conceal himself, or remove out of this colony, or out of the county where he lived when cause of such action accrued, or shall by any other indirect means, prevent or hinder the plaintiff from bringing or maintaining his action within the time herein before limited, such defendant shall not be admitted to plead this act in bar.

Disclaimer.

IV. *And be it further enacted, by the authority aforesaid*, That in all actions of trespass for breaking the close, where the defendant in his plea shall disclaim to make any title or claim to the land where the trespass is alledged to be done, and the trespass is by negligence, or involuntary, such defendant shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass, before action brought, upon some of which the plaintiff shall join issue, and if that be found for the defendant, or the plaintiff be nonsuit, he shall be barred from the said action or actions, and all other suits concerning the same.

Repealing clause

V. *And be it further enacted, by the authority aforesaid*, That one act made in the fourth year of queen Anne, intituled, an Act for limitation of actions, and avoiding of suits, be, and is hereby repealed.

Commencement of this act.

VI. *And be it further enacted, by the authority aforesaid*, That this act shall commence and be in force,

from and immediately after the tenth day of June, which shall be in the year of our lord, one thousand seven hundred and fifty one.

CHAP. X.

An Act prescribing the method of appointing Sheriffs, and for limiting the time of their continuance in office, and directing their duty therein. [From edit. 1752.]

I. **F**OR the regular nomination and appointment of sheriffs, within this colony:

II. *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That every county court of this dominion, shall annually between the last day of June, and the last day of August, present to the governor or commander in chief of this colony, for the time being, a list or recommendation of three persons, named in the commission of the peace for their county, one of which persons so recommended, shall thereupon be commissioned by the said governor or commander in chief, to execute the office of sheriff of that county, for the then next ensuing year; but if at any time any county court shall neglect or refuse to present such list or recommendation; it shall be lawful for the governor or commander in chief, and he is hereby directed to appoint and by his commission constitute, any one person nominated in the commission of the peace for such county, to be sheriff thereof; and if any sheriff, appointed upon recommendation as aforesaid, shall happen to die in the time of his sheriffalty, the governor, or commander in chief may, and is hereby empowered and desired to appoint one of the survivors, recommended with the person deceased, to be sheriff in his room; and when a sheriff, appointed upon neglect or refusal of recommendation, happens to die in his office, any person in commission of the peace of such county, may and shall be commissioned in his stead.

II. *And be it further enacted, by the authority aforesaid,* That no person shall be compellable to serve as sheriff, longer than one year only; but the governor or commander in chief may, if he thinks fit, con-

The method of recommendation & appointments of sheriffs.

And where a sheriff dies in his office.

Time of continuance in office.

tinue any sheriff in his office two years, next succeeding each other, and such person may accept and execute the same two years successively, and no longer:

Sheriff shall give bond and security, before sworn in.

And every person accepting a sheriff's commission, shall, before his being sworn into, or executing his office, enter into bond, before the justices of his county court, with two good and sufficient sureties at the least, in the sum of one thousand pounds current money, for his true and faithful performance of his office; which bond and sureties every county court respectively, is hereby impowered and required, to demand, take, and cause to be acknowledged before them in open court, and recorded: And if any person now appointed, or hereafter to be appointed pursuant to this act, shall refuse to accept and execute such commission to him directed, he shall forfeit and pay twenty pounds current money, to our sovereign lord the king, his heirs and successors, for the use of the county wherein such refusal shall be, towards lessening their county levy, to be recovered with costs, by action of debt or information, in any court of record of this dominion, except the person refusing, shall declare upon oath, before his or the next adjacent county court, "that he hath used his best endeavours, truly and bona fide, without covin or collusion, to get security for performance of the said office, and that he cannot obtain such security:" Which oath such county court upon application to them made, is hereby impowered and required to administer, and cause to be recorded; and thereupon such person shall not be liable to any forfeiture for his refusal, but a new commission shall and may issue, appointing another sheriff in his stead, in the same manner as if such person were naturally dead:

Fine on refusal to serve.

Exception.

Persons serving once, or paying the fine excused 'till all the rest in commission have served, or fined.

Burgesses excepted from being sheriffs.

And no person who hath once served as sheriff, or paid his fine, shall be liable to any further forfeiture, until every justice, other than a burgess, in commission of the peace for that county, shall have actually served as sheriff, or paid his fine, or discharged himself upon oath in manner aforesaid.

III. *Provided always*, That every member of the house of burgesses, in this present or any future General Assembly, during the time of his being a burgess, shall be exempted from being made or appointed sheriff, and from all fines and forfeitures by this act inflicted for refusal thereof.

IV. *And be it further enacted, by the authority aforesaid,* That every sheriff himself or by his lawful officers or deputies, shall from time to time execute all writs, and other process to him legally issued and directed, within his county, or upon any bay, river, or creek adjoining thereto, and shall make due return thereof, under penalty of forfeiting one thousand pounds of tobacco, for every failure, one moiety to his majesty, his heirs and successors for the better support of this government, and the contingent charges thereof, the other moiety to the party grieved, to be recovered with costs, by action of debt, or information, in any county court of this colony; and such sheriff shall be further liable to the action of the party grieved, at the common law, for his or her damages: And for every false return the sheriff shall forfeit and pay three thousand pounds of tobacco, to be recovered divided and applied, in the same manner as last mentioned, and shall also, in like manner, be liable to the party grieved, for damages: And no sheriff shall return, upon any writ to him directed that the defendant is not found in his bailiwick, unless such sheriff or his officer shall have actually been at the dwelling house or place of abode of such defendant, and not finding him, shall have there left an attested copy of the same writ, or process; and where any defendant shall be a known inhabitant of another county, and not of the county of that sheriff to whom the process shall be directed, such sheriff shall return the truth of the case, but not that the person is not found in his county, and thereupon such process issued from any county court clerk's office, as to such defendant shall abate and be dismissed.

Sheriff shall execute process and make return. Penalty on failing to execute.

On a false return.

Rules for returns where the defendant is not found.

V. *Provided always,* That it shall not be lawful for any sheriff, or other officer, to execute any writ or process upon the Lords day, commonly called Sunday, nor upon any person attending his duty at any muster of the militia, or any election of a burgess or burgeses; and that all process so executed shall be illegal and void, unless the same be issued against any person or persons for treason, felony, riot, breach of the peace, or upon an escape out of prison, or custody, and such process shall and may be executed at any time or place.

Process executed on a Sunday void. Orat musters or elections of burgesses. Except in criminal cases or escapes.

VI. *And be it further enacted, by the authority aforesaid,* That it shall not be lawful for any sheriff, or

What obligations the she-

riff may take
of persons in
custody.

his officer or deputy, to take any obligation of, or for any person or persons in his custody, for or concerning any matter relating to his office, otherwise payable than to himself, as sheriff, and dischargeable upon the prisoner's appearance, and rendering himself at the day and place required in the writ whereupon he was or shall be taken, or arrested: And that every obligation by any sheriff taken in other manner or form, by colour of his office, shall be null and void, except in any special case any other obligation is or shall be by law particularly and expressly directed: And that no sheriff of any county within this dominion shall demand, or take any other or greater fee or reward whatsoever, nor shall have any allowance, reward, or satisfaction from the public, for any service or business by him done, other than the allowances given and provided by law, from time to time, in the table of sheriff's fees; and that all services not there expressly enumerated, and provided for, shall be by him done *ex officio*.

His fees, public
or private.

Sheriff shall
be collector
of quit rents,
public and
county le-
vies.

VII. *And be it further enacted, by the authority aforesaid,* That every sheriff, when required by the governor's warrant for that purpose, shall collect the quit-rents due to his majesty, in his county; and shall also receive and collect the public and county levies; and shall duly pay and satisfy all such quit-rents, and levies, to the receiver general, and the public or county creditors, respectively, at the time or times which now are, or hereafter shall be, by law limited from time to time.

How he shall
account and
pay.

VIII. And whereas some sheriffs, and others collectors, of levies, have discovered some tithables not inlisted, and have demanded and received the levies for them, and retained the same to their own use: *Be it therefore enacted, by the authority aforesaid,* That all sheriffs and collectors shall hereafter account, on oath, for all such levies by them received, to the respective county courts or vestries, as the case may be, which shall be applied towards lessening the levy of such county, or Parish.

Collector of
quit rents,
or levies may
distrain.

IX. *And be it further enacted,* That where any person or persons holding lands of his majesty, shall fail to satisfy and pay the quit rents due for the same; or, where any person or persons shall be indebted for public, county, or parish levies, and shall not discharge the same, within the time limited by law for the payment thereof, it shall be lawful for the sheriff, or col-

lector of such quit rents or levies, or either of them, to distrain any of the slaves, goods, or chattels, which shall be found upon the lands, and in the possession of the person so indebted, or failing, notwithstanding such slaves, goods, or chattels shall be comprised in any deed of mortgage: And if the owner thereof shall not pay the quit rents, or levies due, within five days after such distress, such sheriff, or collector, shall and may lawfully sell, by auction, the slaves, goods, and chattels distrained, or so much thereof as shall be sufficient to satisfy the said quit-rents, or levies, and the charges of distress and sale: But shall give notice of the day and place of sale, at the church of the parish wherein such distress shall be, by setting up a note thereof, before the service begins, at some convenient or usual place near such church, and by publishing the same in the church yard, immediately after divine service, on the next Sunday after the expiration of the said five days: which sale shall not be in less than three, nor more than six days, after notice so given, and shall be good and effectual in law, against all and every person and persons whatsoever, claiming or pretending to claim any right, title, or interest, in, or to any of the said slaves, goods or chattels.

What shall be liable to distress

If no replevin by payment in five days, shall be sold by auction.

Method and time of sale.

X. *Provided always*, That no sheriff, or other officer, nor any collector of levies, or officers fees, shall at any time make or take unreasonable seizures or distresses, or seise or distrain the slave, or slaves of any person, for any quit rents, or for any public, county, or parish levies, or for any officers fees, if other sufficient distress can be had, upon penalty of being liable to the action of the party grieved, grounded upon this act, wherein the plaintiff shall recover his full costs, altho' the damages given do not exceed forty shillings.

Penalty on officers making unreasonable seizure, or distressing slaves where other distress can be had.

XI. And whereas the situation of most prisons in this colony hath given opportunities to evil disposed persons to break open the same, and turn out debtors and others in custody, to the hindrance of justice, prejudice of creditors, and ruin of sheriffs, who have been compelled to pay the debts with which such prisoners stood charged: For remedy thereof, *Be it further enacted, by the authority aforesaid*, That no judgment shall be entered against any sheriff, or other officer, in any suit brought upon the escape of any debtor in his or their custody, unless the jury who shall try the

Sheriff indemnified from involuntary escapes.

issue, shall expressly find, that such debtor or prisoner, did escape with the consent, or through the negligence of such sheriff, or his officer or officers, or that such prisoner might have been re-taken, and that the sheriff and his officers neglected to make immediate pursuit.

Process against a prisoner escaped.

Escape warrant.

Return therof, upon retaking & proceeding thereupon.

XII. And for the more effectual retaking and securing persons who escape out of prison, *Be it further enacted, by the authority aforesaid.* That if any person committed, rendred, or charged, in custody, in execution, or upon mesne process, to any county prison, shall thence escape, it shall and may be lawful to and for any justice of the peace, in the county where such prisoner was in custody, upon oath of such escape before him made, by the sheriff, under sheriff, goaler, or other credible person, to grant unto any one demanding the same, one or more warrant or warrants under his hand and seal, directed to all sheriffs, mayors, bailiffs, constables, and headboroughs within this colony and dominion, reciting, the cause of such prisoner's commitment, and time of his or her escape, and commanding them and every of them, in their respective counties cities, towns, and precincts, to seise and retake such prisoner so escaped, or going at large, and being so re-taken, forthwith to convey and commit to the prison where debtors are usually kept, in the county where such retaking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of law: Which warrant the sheriff is hereby required to obey, and to receive the prisoner into his safe custody, and to give a note to the person or persons delivering him or her, certifying his receipt of such prisoner; and shall also make return of the execution of such warrant, to the court of the county from whence the prisoner escaped: And if he or she was there in custody charged in execution, then the said sheriff shall safely keep him, or her, without bail or mainprize, until he or she shall make full payment and satisfaction to the plaintiff or plaintiffs, creditor or creditors, in whose name such execution was sued out, or until the judgment or judgments obtained against him, or her, shall be reversed or discharged by due course of law; and if such prisoner shall have been in custody upon mesne process, in any action of debt, or upon the case, the sheriff to whom he, or she, shall be so re-committed, shall in like man-

ner keep such prisoner in his safe custody, and make return of the execution of the warrant by which he, or she, was re-taken, to the court of that county wherein he, or she, was first arrested, and thereupon it shall be lawful for the said court, upon the plaintiff's or creditor's filing his declaration, to proceed and give judgment thereon, according as the truth of the case shall appear to them, in the same manner as if the defendant had appeared in the said court and refuse to plead, unless such defendant shall cause special bail to be entered in the said court, and shall immediately plead to issue, and then upon certificate under the hand of the clerk of the said court, that such bail is given delivered to the sheriff in whose custody such defendant then shall be, it shall be lawful for the said sheriff to set at large such prisoner, and not otherwise: But where any prisoner escaped and retaken, upon such warrant as aforesaid, shall thereafter be charged with treason, felony, or other crime, or cause, in behalf of his majesty, his heirs or successors, for which he, or she, ought to be tried in the general court, or court of oyer and terminer, and shall be for such cause removed to the public goal, of this colony, every such prisoner shall be charged in the said public goal with all the causes wherewith he or she stood charged in the prison from whence he or she was so removed, until he, or she, be thence delivered by due course of law, in like manner as is herein before directed.

XIII. And whereas felons, and other criminals committed to the county prisons, in order to their examination, or removal to the public goal, and slaves committed for capital crimes, conscious of their guilt, are most likely to break prison and escape: For prevention thereof, *Be it further enacted, by the authority aforesaid.* That where any person or persons, accused of treason, felony, or other capital crime, shall be committed to any county goal, and the sheriff shall have cause to suspect, such person will attempt to escape, such sheriff is hereby impowered and required to impress a sufficient guard, for securing such prisoner or prisoners, so long as he she or they continue in the said goal, at the charge of and to be levied on such county, and to be repaid by the public, in the same manner as the charges of summoning, and holding courts for the examination of criminals.

Sheriff may
impress a
guard for se-
curing crimi-
nals in goal.

XIV. And for removing all controversies touching the manner of turning over prisoners, upon a sheriff's quitting his office.

Method of turning over prisoners, by the sheriff to his successor.

XV. *Be it further enacted, by the authority aforesaid,* That the delivery of prisoners, by indenture between the old sheriff and the new, according to the practice in England, or the entering upon record in the county court, the names of the several prisoners, and causes of their commitment, delivered over to the new sheriff shall be sufficient to discharge the late sheriff, from all suits or actions, for any escape that shall happen afterwards.

Sheriff may distrain for arrears of public debts, due to his predecessors

XVI. *And be it further enacted, by the authority aforesaid,* That where any arrears of quit-rents, levies, or officers fees, are or shall be due, from any person or persons whatsoever, and the sheriff to whom the same ought to have been paid, dies, or is removed from his office, it shall be lawful for the succeeding sheriff or sheriffs, to make distress for the same, upon the slaves, goods or chattels of the person or persons so chargeable, and to make sale thereof, in the manner by this act before directed, to be accounted for and paid by such sheriff, to his majesty's receiver-general, public, county, or parish creditors, or such other person or persons to whom such arrears shall be due: And that every sheriff shall have and retain, for all tobacco due for public, county, or parish levies, quit-rents, secretary's, or other officers fees, put into his hands to collect, an allowance of six per centum, for collecting and paying the same.

Sheriffs allowance for collecting public debts.

Sheriff of James city may summon jurors in Williamsburg.

XVII. *And be it further enacted, by the authority aforesaid,* That the sheriff of the county of James City, for the time being, and his under sheriffs and deputies, and every of them, shall be and are hereby empowered, and authorised to summon jurors of the inhabitants of James City county, in all and every part of the city of Williamsburg, as well in that part lying in York, as in James City, to serve on juries on the days appointed for holding courts in the said county of James City.

Repealing clause.

XVIII. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, clause and clauses heretofore made, for or concerning

any matter or thing within the purview of this act, shall be and are hereby repealed.

XIX. *And be it further enacted*, That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our Lord one thousand seven hundred and fifty one. Commence-
ment of this
act.

CHAP. XI.

An Act concerning Juries.

[From edit,
1752,]

I. **F**OR the more regular inquiry into the breaches of penal laws, and trials of matters of fact, in the several courts of justice within this dominion, by grand juries and petit juries: *Be it enacted, by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same*, That every county court shall cause twenty four freeholders of their county, not being ordinary keepers, constables, surveyors of highways, or owners or occupiers of a mill, to be summoned to appear in May and November courts, annually out of which shall be impanelled a grand jury of fifteen at least, who shall be sworn to enquire into the breach of penal laws, and make presentment of the offenders, but shall present such offences and breaches only, as shall be committed within the space of twelve months before the time of such presentment, and no longer, unless the same be otherwise directed by law; and such grand jury having presented all such matters as come to their knowledge, shall be discharged, always observing, that when they make presentment upon information of any other person than themselves, to write the names of the informers, under such presentment, for the more effectual prosecution thereof; and every such grand jury shall and may present, and the several county courts shall have full power and authority to hear and determine, all offences made penal by the laws of this colony, altho' the recovery of the fines for such offences shall be otherwise directed by the laws inflicting the same, and altho' the forfeiture or penalty thereby inflicted shall not amount to twenty five shillings current money, or two hundred pounds of tobacco: And if any freeholder, being summoned,

Grand juries to be summoned to every county court, in May & November. Their duty in presenting offenders against penal laws. How presentments shall be made and determined.

Fines on jurors not appearing.

On courts not ordering summons.

On a sheriff not executing a summons & returning a pannel.

Method of prosecuting presentments, where the penalty does not exceed 5l or 1000l. of tobacco.

Grand juries at the general court.

shall fail to appear as aforesaid, so as no grand jury can be impanelled, he shall be fined by the court, four hundred pounds of tobacco to the king his heirs and successors, for the use of the same county, unless legal cause for non-appearance be shewn, and allowed at the next court held for such county: and if the court of any county shall fail to order a grand jury to be summoned as aforesaid, or upon the appearance of fifteen shall omit to swear a grand jury, every member of such court, shall forfeit and pay, four hundred pounds of tobacco; and if any sheriff, upon order of court, shall fail to summon twenty four freeholders, and return a pannel of their names to May and November courts, annually, he shall forfeit and pay one thousand pounds of tobacco, both which last mentioned penalties shall be to the king, his heirs and successors, for the use of the county wherein the same shall be forfeited, and recoverable by information in the general court of this dominion.

II. *And be it further enacted, by the authority aforesaid,* That when any offence or offences shall be presented by the grand jury of any county, and the penalty or forfeiture by law inflicted thereon, shall not exceed five pounds current money, or one thousand pounds of tobacco, be it to the king and informer, or to the informer or party only, or appropriated to any other use whatsoever, such presentment need not be drawn up in other form, than as the same stands presented by the grand jury; and thereupon the court shall order a summons forthwith to issue, to summon any person or persons, so presented, to appear and answer such presentment, at the next court, and shall not admit of any exception or pleading, to the form or manner thereof, but shall proceed to trial, without the formality of a jury, and give judgment upon such presentment, according as the very right of the cause and matter in law shall appear unto them; and if the party summoned fails to appear, the court may give judgment for the penalty.

III. *And for presentments to be made at the general court, Be it further enacted, by the authority aforesaid,* That the sheriff or officer attending the said court, shall summon a grand jury of the bystanders, being freeholders, who shall and may, and are hereby declared to have full power to make pre-

sentments of any offences whatsoever, committed within this colony, except such only, where the penalty inflicted by the law in force, is under twenty shillings, or two hundred pounds of tobacco; and the court shall have power to hear and determine such offences, in the same manner as is herein before directed in the county courts: And to the end such grand juries may be of the most capable persons, it shall be lawful for the said court, upon the first or second day of their sitting to make a rule for the officer attending the court, to summon twenty four persons for a grand jury; and if any person so summoned, shall fail to appear and attend such court, he shall be fined four hundred pounds of tobacco, to the king, his heirs, and successors, for and towards the better support of this government, and the contingent charges thereof.

Not to present offences under 20s or 200l. of tobacco.

IV. *Provided always*, That no grand jury shall make any presentments of their own knowledge, upon the information of less than two of their own body.

Rule in presentments.

V. *And be it further enacted, by the authority aforesaid*, That for the trial of all causes, except treason and felony, both in the general court, and county court, the sheriff or officer, attending such court, shall, every day the court sits, summon a sufficient number of the bystanders, qualified as hereafter is directed, to attend the court that day, that out of them may be impanelled sufficient juries, for the trial of causes depending in such court; and if any person so summoned, shall fail to attend the court accordingly, he shall be fined four hundred pounds of tobacco, to the king, his heirs and successors, for and towards the better support of this government, and the contingent charges thereof.

Sheriff shall summon jurors at every court.

Fine if they neglect to attend.

VI. *And be it further enacted, by the authority aforesaid*, That no person shall be capable to be of a jury, for trial of treason, felony, breach of the peace, misprision of treason, breach of penal law, or any other pleas of the crown, or of any estate of freehold, or estate or title in or to lands, tenements, or hereditaments, in any court of record of this dominion, or to be a juror in any cause whatsoever, depending in the general court, unless such person be a freeholder, and possessed of a visible estate, real and personal, of the value of one hundred pounds current money, at the

Qualifications of jurors.

In the general court.

In county courts.
But shall not be challenged for want of estate after sworn.

least; and that no person shall be capable to be of a jury for trial of any cause whatsoever, in any county court, unless he be possessed of a visible estate, real or personal, of the value of fifty pounds at least: And that no sheriff or officer shall at any time summon, or return, any juror not qualified as this act directs: *Provided always*, That no exceptions against any juror on account of his estate shall be allowed, after he is sworn.

Repealing clause.

VII. *And be it further enacted, by the authority aforesaid*, That all and every other act and acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this act, shall be and are hereby repealed.

Commencement of this act.

VIII. *And be it further enacted, by the authority aforesaid*, That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one.

[From edit.
1752]

CHAP. XII.

An Act declaring the law concerning Executions; and for relief of Insolvent debtors.

Preamble.

I. **W**HEREAS by the common law of England, and divers acts of parliament, which are binding upon the subjects of this colony, all persons recovering any debt, damages, or costs, by the judgment of any court of record, may at their election, prosecute writs of fieri facias, elegit, and capias ad satisfaciendum, within the year, for the taking the goods, lands, or body of the person or persons against whom such judgment is obtained, to the end the said several writs issuing out of any of the courts of record within this dominion, and the manner of executing and returning the same, may be uniform, and the mischiefs arising from the incorrect forms, and insufficient returns of such writs prevented.

Writs of execution.

II. *Be it enacted and declared by the Lieutenant-Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same*, That the several writs aforesaid, shall be issued in the king's name, and in the manner following: That is to

say, all such writs issued from the secretary's office shall bear test by the governor, or commander in chief of this dominion for the time being, and shall be returnable to the eighth, or twenty third day, of the next succeeding general court; and all such writs issued from the clerk's office of any county court, or other inferior court of record, shall bear test by such clerk, and be returnable to his next succeeding court; so that there be always at least fifteen days between the test and return of each of the writs aforesaid, but if the plaintiff in any county court, or other inferior court, shall desire an execution to issue returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the test thereof: And that the forms of the said several writs shall be as follows, mutatis mutandis, to wit.

How to be
issued and
returned,

15 days, at
least, be-
tween the
test and re-
turn, or more
if the plain-
tiff desire it,
but not ex-
ceeding 90
days,
Forms of the
writs,

A Fieri Facias, in Debt.

GEORGE the second, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. To the sheriff of county, greeting: We command you, that of the goods, and chattels, of A. B. late in your bailiwick, you cause to be made the sum of which C. D. lately, in our general court, hath recovered against him for debt; also, the sum of which to the said C. D. in the same court, were adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted, as appears to us of record: And that you have the said before the justices of our said court, the day of to render to the said C. D. of the debt and damages aforesaid, and have there then this writ. Witness, &c.

Against
goods and
chattels,
Debt,

The same, in case upon a Promise.

—As before, unto—For his damages, which he sustained, as well by reason of his not performing a certain promise, and assumption, to the said C. D. by the said A. B. lately made, as for his costs by him about his suit in this behalf expended: &c.—

Case, as-
sumpsit,

In Trespass.

—As before, unto—For damages, as well by oc-

Trespass,

casion of a certain trespass by the said A. B. to the said C. D. offered, as for his costs, &c.

If for the Defendant, say,

For the de-
fendant.

——For his costs about his defence, in a certain action at the suit of the said, &c.

In Covenant.

Covenant,

——As before, unto——For damages, &c.——by occasion of the breach of a certain covenant between the said A. B. and C. D. lately made, &c.

The Form of a Writ of Elegit.

Against
lands and te-
nements,

GEORGE, &c.——Greeting. Whereas, A. B. at our general court,——&c.——, before our justices held, hath recovered against C. D. the sum of

which to the said plaintiff was adjudged for a certain debt——or damages——as before——, and the said A. B. by the statute in that case made and provided, hath chosen to have delivered to him, all the goods and chattels of the said C. D. besides the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick: To have and to hold the goods and chattels aforesaid, as his own proper goods, and the said moiety, as his freehold, to him and his assigns, until he shall have levied thereof the debt and damages aforesaid: Therefore we command you, that you cause to be delivered, all the goods and chattels of the said C. D. besides the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick, whereof he, at the day of obtaining the said judgment, was seised, or at any time afterwards, by reasonable price and extent: To have and to hold, the said goods, and chattels, to him the said A. B. as his own proper goods, and chattels, and the said moiety as his freehold, to him and his assigns, according to the form of the statute aforesaid, until he shall have levied thereof the debt and damages aforesaid: And that you certify our said justices, under your own seal, and the seals of those by whose oaths you shall make this extent, and appraisement, how you execute this writ, the day of and have then there this writ, &c.

Against the
body,

A Capias ad Satisfaciendum.

GEORGE, &c. greeting: We command you, that

you take A. B. late of if he be found with-
in your bailiwick, and him safely keep, so that you have
his body before our justices of our general court, &c.
—the day of to satisfy C. D.
the sum of which the said C. D. hath
recovered against him for debt, also, &c. as before—

In Case, Trespass, or Covenant, as in the Fieri Facias.

Which said writs, so issued, shall be executed by Forms of the
returns.
the sheriff, or other officer, or minister, to whom the
same shall be directed, and shall be returned accord-
ing to the respective forms hereafter mentioned, to
wit.

The return of a Fieri Facias.

BY virtue of this writ to me directed, I have caused Fieri facias,
executed.
to be made the within mentioned sum of
of the goods, and chattels of the within named A. B.
which said sum of before the justices within
mentioned, at the day and place within contained, I
have ready as that writ requires.

Or,

THE within named A. B. hath no goods, or chat- Where no
goods.
tles, within my bailiwick, whereof I can make the
sum within mentioned.

Or,

BY virtue, &c. I have caused to be made of the goods Where part
is levied.
and chattels of the within named A. B. the sum of
which I have ready to render to the within
named C. D. in part of the debt and damages within
mentioned: And I do further certify, that the said
A. B. hath no more goods and chattels within my
bailiwick, whereof at present I can make the resi-
due of the said debt and damages, as by the said writ
is required.

Return of a Writ of Elegit.

sc. INQUISITION indented, taken at Elegit, exe-
cuted.
in the county aforesaid, the day of
in the year of our Lord before me E. F.
Gent. sheriff of the county aforesaid: By virtue of a

writ of our lord the king, to me directed, and to this inquisition annexed, and by the oath of G. H. I. K. &c. good and lawful men of my bailiwick, who being charged and sworn, upon their oath do say, that A. B. in the said writ to this inquisition annexed, named, the day of the caption of this inquisition was possessed of the goods and chattels following, as of his own proper goods, viz. of the price of

which I, the said sheriff, have caused to be delivered to the same C. D. to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned; and further, the said jurors upon their oath do say, that the said A. B. at the time of rendering the judgment aforesaid, was seised in his demesne, as of fee, of and in——(here name the houses and lands)——with the appurtenances, of the annual value, in all the issues beyond reprises, of pounds, acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements, and hereditaments whatsoever, in the county aforesaid, of the said A. B. which said moiety, I the said sheriff, the day aforesaid, to C. D. in the said writ named, at a reasonable extent have delivered, to hold to him and his assigns, as his freehold, according to the form of the statute in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires: And further, the said jurors upon their oath do say, that the said A. B. at the time of giving the judgment aforesaid, hath not, nor at the day of taking this inquisition hath, any other or more goods or chattels, lands or tenements, in the county aforesaid, to the knowledge of the jurors aforesaid. In testimony whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have severally put our seals, the day, year, and place, above mentioned.

Return of a Capias ad Satisfaciendum.

Capias executed.

BY virtue of this writ to me directed, I have taken the within named A. B. whose body, before the justices within named, at the day and place within contained, I have ready, to satisfy C. D. of the debt and damages within mentioned, as within to me is commanded.

Or,

Not execut-
ed.

THE within named A. B. is not found in my bailiwick.

III. And whereas before the statute made in the twenty first year of the late king James the first, it hath been questioned, if any person being in prison, charged in execution by reason of any judgment given against him, should happen to die in execution, whether the party at whose suit such person stood charged in execution, at the time of his death, were not for ever concluded and barred, to have execution of the lands and goods of the person so dying? And least any person of sufficiency in real and personal estate, intending to deceive others of their just debts, for which he stands charged in execution, should obstinately and wilfully choose rather to live and die in prison, than to make any satisfaction to his creditors: *Be it further enacted by the authority aforesaid*, That the party or parties at whose suit, or to whom any person shall stand charged in execution, for any debt or damages recovered, his or their executors or administrators, may after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, good and chattels, or any of them, of the person so deceased.

If a debtor dies in prison, creditors may have new execution against his estate.

IV. *Provided always*, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be, and die in execution, to have, or take any new execution against any the lands, tenements, or hereditaments of such party dying in execution, which shall at any time after the said judgment, or judgments, be by him sold, *bona fide*, for the payment of any of his creditors, at whose suit he shall be in execution, and the money paid, or secured to be paid, to any such creditors, with their privity, in discharge of his or their debts, or some part thereof.

Debtor may sell his lands, for the benefit of such creditors at whose suit he is in execution.

V. And for the better direction of clerks in the issuing of executions, *Be it further enacted by the authority aforesaid*, That when any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution, at his own proper costs and charges, the clerk may issue the same, if the first writ be not re-

Rules in issuing the writs.

turned and executed; and where upon a *capias ad satisfaciendum*, the sheriff shall return, that the defendant is not found, the clerk may issue a *fieri facias*; and if upon a *fieri facias* shall return, that the party hath no goods; or, that only part of the debt is levied, in such case, it shall be lawful to issue a *capias ad satisfaciendum*, upon the same judgment; and so where part of a debt shall be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned upon any writ of *elegit*, a *capias ad satisfaciendum* or *fieri facias*, may issue, and so vice versa; and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant, and not otherwise.

VI. And whereas by the common law, if a creditor take execution upon any judgment or statute, and the debtor shall before make alienation of part of his lands, and such lands be omitted out of the extent, the whole execution may be avoided by *audita quereas*, and thereby the party extending may lose his costs, and be delayed of his just debt; and so again, upon a new extent, *toties quoties*: And if any one acre of land happen to descend to an infant, the whole execution must be deferred till the full age of such infant; and if afterwards other part of the lands or tenements, liable for such debt, shall descend to another infant, then further delay will happen during that infancy also; for remedy of which inconveniencies and delays.

No extent shall be avoided by omission of part of the land extendible.

VII. *It is hereby further enacted and declared*, That when any judgment, statute, or recognizance shall be extended, the same shall not be avoided or delayed, by occasion that any part of the lands or tenements extendible, are or shall be omitted out of such extent.

Saving remedy of contribution.

VIII. Saving always to the party and parties whose lands shall be extended, his and their heirs, executors and assigns, his and their remedy for contribution against such person and persons, whose lands are, or shall be omitted out of such extent, from time to time.

Infant's lands excepted.

IX. *Provided nevertheless*, That this act, or any thing therein contained, shall not be construed to give any extent or contribution, against any heir within the age of one and twenty years, during such minority of such heir, for, or in respect of any lands to such heir descended, further or otherwise than might have been made before the making of this act.

X. *And be it further enacted, by the authority aforesaid,* That no writ of fieri facias, or other writ of execution, shall bind the property of the goods against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer, to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy, or agent, shall, upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month, and year, when he received the same; and if two or more writs shall be delivered against the same person, in the same day, that which was first delivered shall be satisfied first.

Officer shall endorse the time of receiving writs of execution.

Writs first delivered, shall be first satisfied.

XI. *And be it further enacted, by the authority aforesaid,* That when any sheriff, or other officer, shall take the goods or chattels of any person whatsoever, by virtue of any writ of fieri facias, and the owner of such goods and chattels shall not, within five days after such taking, satisfy the party suing out such writ, his debt, damages, and costs, such sheriff, or officer, shall, and may lawfully sell, by auction, the goods and chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment, for the best price that can be got for the same; but shall give notice of the time and place of such sale, at the church of the parish where such goods shall be taken in execution, by setting up a note thereof, before the service begins, in some convenient or usual place near such church, and by publishing the same in the church yard, immediately after divine service, upon the next Sunday, after expiration of the said five days; which sale shall be made the third day after such notice given, and not sooner.

Rules in executing a fieri facias.

XII. *Provided always,* That if the owner of such goods and chattels shall give sufficient security to such sheriff, or officer, to have the same goods and chattels forthcoming at the day of sale, it shall be lawful for the sheriff, or officer, to accept such security, and to suffer the said goods and chattels to remain in the possession, and at the risque of such debtor until the time aforesaid, and if then such owner shall tender to the sheriff, or officer, the debt, damages and costs, for which his goods and chattels were so taken, such sheriff, or officer shall accept the same, and restore the said goods to the owner.

Officer may accept security for goods seized, 'til the day of sale.

Payment before sale, discharges the goods.

Or, security
to pay in
three
months.

Where goods
taken, can-
not be sold
for 3-4 of
their value,
officer may
sell such up-
on three
months ere-
dit.

Proceedings
upon bonds
taken in pur-
suance of
this act.

Executions
against col-
lectors of
public debts,
excepted out
of this act.

XIII. *Provided also,* That where any execution shall be served upon the goods or other estate of the debtor, if such debtor shall, within five days or at the time of sale, tender sufficient sureties approved by the creditor, to be bound with him, to pay the money, or tobacco, for which execution was so served, and all costs, with lawful interest for the same, to such creditor within three months, then the sheriff or officer shall restore to such debtor the goods or estate so taken; and where no such security shall be offered, and the goods or other things taken in execution cannot be sold for three fourths of their value, at the least, in the opinion of the sheriff, or other officer, he may set up and sell the same for money, or for tobacco, if the judgment be for tobacco, to be paid at the end of three months, and shall take bond of the buyer or buyers, with one or more sufficient sureties, to pay the same accordingly, with interest, to such creditor.

XIV. *And be it further enacted, by the authority aforesaid,* That all and every bond and bonds, so taken in pursuance of this act, shall mention, that the same was, or were entred into for goods or other estate, taken in execution and restored to the debtor, or sold to the obligor, as the case shall be, and before the expiration of the said three months, shall be returned, by the sheriff or officer taking the same, to the office of the clerk of the court from whence the execution issued, there to be safely kept, and shall have the force of judgments; and if the money or tobacco shall not be paid, according to the condition of any such bond, it shall be lawful, and full power and authority is hereby given to the justices of the court where such bond shall be lodged, upon motion of the party to whom the same is payable, to award execution thereupon, with costs; provided the obligors have ten days notice of such motion: And upon such execution, the sheriff or officer shall not take any sureties for payment of the money or tobacco, at a further day, but shall levy the same immediately: And for the better direction of such sheriff or officer, the clerk shall endorse upon the back of every such execution, that no security is to be taken.

XV. *Provided always,* That nothing in this act contained shall be construed to extend to any execution upon any judgment obtained against a sheriff, or

other collector of levies or officers fees, for any debt, due to any public or county creditor, or for secretary's county court clerk's, surveyor's or other officer's fees, put into his hands to collect, but such executions shall and may be proceeded upon immediately, and no security shall be taken, or further time allowed, any thing in this act to the contrary notwithstanding.

XV. *And be it further enacted, by the authority aforesaid,* That no sheriff, or other officer, to whom any writ of fieri facias shall be directed, shall take in execution any slave or slaves, unless the debt and costs, mentioned in such fieri facias, shall amount to the sum of ten pounds, or two thousand pounds of tobacco, provided there be shewn to such sheriff, or officer, by the defendant or any other person, sufficient other goods or chattels of such defendant, within the bailiwick or liberty of such sheriff or officer, upon which he may levy the debt and costs, mentioned in such fieri facias: And that no collector of any officer's fees, or of public, county, or parish levies, shall seise or make distress upon the slave or slaves of any person, for such fees or levies, if other sufficient distress can be had: And that no sheriff, or other officer, or collector of fees or levies, shall make or take unreasonable seizures or distresses: And if any sheriff, or other officer, or collector, as aforesaid, shall act contrary hereto, such sheriff, officer, or collector, shall be liable to the action of the party grieved, grounded upon this act, wherein the plaintiff shall recover his full costs, altho' the damages do not exceed forty shillings.

In what cases slaves may not be seised.

Penalty for making unlawful seizure.

No execution or distress for tobacco, between 30th September and 31st December.

XVII. *And be it further enacted, by the authority aforesaid,* That no execution shall be levied, nor distress made for tobacco, between the last day of September, and the last day of December in any year.

XVIII. *And be it further enacted, by the authority aforesaid,* That if any sheriff, or other officer or minister, shall make return upon any writ of fieri facias, that he hath levied the debt, damages, and costs, as in such writ is required, or any part thereof, and shall not immediately pay the same, to the party to whom the same is payable, or his attorney, the clerk of the court out of which such writ issued is hereby required, upon request of the party, to issue a scire facias against such sheriff, or officer, to have execution against him, for the money so by him levied.

Process against officer not paying monies by him levied.

The manner
of executing
a writ of ven-
ditioni expo-
nas.

XIX. And if the goods taken by any sheriff, or other officer, or minister as aforesaid, or any part thereof, shall remain in his hands for want of buyers, he shall make return accordingly, and thereupon the writ of venditioni exponas shall issue, to such sheriff, officer, or minister directed, according to the form following.

Form of the
writ.

GEORGE, &c. Greeting: We command you, that you expose to sale those goods and chattels of A. B. to the value of _____ which according to our command, you have taken into our hands, and which you detain for want of buyers, as you have certified to our justices of our court, to satisfy C. D. the sum of _____ whereof in our said court he hath recovered execution against the said A. B. by virtue of a judgment in the said court: And that you have, &c.

And thereupon such sheriff, or officer shall dispose of such goods and chattels in any manner, either for ready money, or upon credit, as he and the party prosecuting such writ shall think best.

Method of is-
suing execu-
tion against
defendant in
another
county.

XX. *And be it further enacted, by the authority aforesaid,* That where judgment shall be obtained in any county court, or other inferior court of record, for any debt or damages, and the person, against whom such judgment shall be obtained, shall remove himself and his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of fieri facias, or capias ad satisfaciendum, in the form, and under the test herein before prescribed, and to direct the same to the sheriff of any county within this dominion, where the defendant, or debtor, or his goods shall be found; which said sheriff, or other officer to whom the same shall be directed, is hereby impowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

Where pri-
soners may
have liberty
of the rules.

XXI. *And be it further enacted, by the authority aforesaid,* That if any person or persons, taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon

condition, that he, or they, shall not depart or go out of the rules or bounds of the prison to which he, or they, shall be committed, it shall be lawful for the sheriff, or officer, in whose custody such prisoner or prisoners shall be, to permit him or them to go out of the prison, and return at their pleasure.

XXII. And whereas it is not reasonable or just, that by the practice or contrivance of any debtors, their creditors should be defrauded of their just debts, and nevertheless it hath often so happened that several persons, having by bonds, or other specialties, bound themselves and their heirs, and afterwards died, seised of, and in messuages, lands, tenements, and hereditaments, have, to the defrauding such their creditors, by their last wills and testaments, devised the same, or so disposed thereof, that such creditors have lost their just debts: For remedy thereof, and that it may not be in the power of heirs at law, to avoid the payment of the just debts of their ancestors, by selling, aliening, or making over, any lands, tenements, or hereditaments, liable to such debts, before any process be sued out against them.

XXIII. *Be it further enacted, by the authority aforesaid,* That one act of parliament, made in the third year of the reign of the late king William, and queen Mary, intituled, An act for the relief of creditors against fraudulent devises, shall be, and is hereby declared to be in force, within this colony and dominion.

The statute for relief of creditors against fraudulent devises, enacted.

XXIV. And for relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be no benefit, but may be rather a disadvantage to their creditors: *Be it further enacted, by the authority aforesaid:* That if any person or persons now are, or hereafter shall be, taken or charged in execution, and shall have remained in prison by the space of twenty days, it shall be lawful for any justice or justices of the peace, of any county, city, town, or liberty, within this colony, upon petition of such prisoner or prisoners, by warrant under his, or their hands and seals, to require the sheriff, goaler, or keeper, of any prison within their respective jurisdictions, to bring before the justices, at the next court held for such county, city, town, or liberty, the body of any person being in prison as aforesaid, togeth-

The method of insolvent debtors discharge.

er with a list of the several executions, with which he or she is charged in the said goal; which warrant every such sheriff, goaler, or keeper, is hereby commanded to obey; and notice thereof shall be given to the party or parties, his, or their executors, administrators, or agents, at whose suit such prisoner shall be in execution; and such prisoner coming before the justices, shall in open court, subscribe and deliver in a schedule of his whole estate, and make oath, and swear to the effect following, that is to say.

Prisoner's
oath.

I A. B. do, upon my corporal oath, in the presence of Almighty God, solemnly swear, profess, and declare, that the schedule, now delivered and by me subscribed, doth contain, to the best of my knowledge and remembrance, a full, just, true, and perfect account, and discovery, of all the estate, goods, and effects, unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me, and of all securities and contracts, whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me; and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts, with which I am charged in execution; and that I have not, directly or indirectly, sold, lessened, or otherwise disposed of in trust, or concealed, all or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, to receive, or expect, any profit or advantage thereof, or to defraud or deceive, any creditor or creditors, to whom I am indebted, in any wise howsoever.

So help me God.

Which schedule being so subscribed, in the presence of the justices, in open court, is to remain with the clerk of the court, for the better information of the creditors of such prisoners.

How such
debtor's es-
tate shall be
disposed of.

XXV. *And be it further enacted, by the authority aforesaid, That all the lands, tenements, and hereditaments, which shall be contained in such schedule, for such use, interest, right, or title, as such prisoner or prisoners, then shall have in the same, which he, or she, may lawfully depart withal, and also all goods and chattels whatsoever, in such schedule contained, shall*

be vested in the sheriff of the county wherein such lands, tenements, hereditaments, goods or chattels shall lie, or be found; and such sheriff is hereby authorised impowered, and required, to sell and convey the same, to any person or persons whatsoever, for the best price that can be got for the same, and the money arising by such sale, shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned; saving to every such prisoner, his, or her necessary apparel, and utensils of trade.

XXVI. And that after delivering in such schedule, and taking such oath, as aforesaid, it shall be lawful for the justices of the said courts, by their order to command the sheriff, goaler, or keeper of any prison, within their respective jurisdictions, forthwith to set at liberty such prisoner; Which order shall be sufficient to discharge and indemnify such sheriff, or officer, against any escape or escapes, action or actions whatsoever, which shall or may be brought or prosecuted, against him or them by reason thereof; and if any action shall be commenced against any sheriff, or officer, for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence.

Prisoner's discharge.

Sheriff indemnified.

XXVII. *Provided always*, That notwithstanding such discharge, it shall be lawful for any creditor or creditors, at whose suit such insolvent prisoner was imprisoned, at any time afterwards to sue out a writ of scire facias, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire, or be possessed of.

But creditor may afterwards have execution against such debtor's estate.

XXVIII. *And be it further enacted, by the authority aforesaid*, That where any person now is, or hereafter shall be committed, for any debt, or damages whatsoever, and shall not be able to satisfy and pay, his, or her ordinary prison fees, such of the said fees as shall become due for the first twenty days imprisonment, shall be discharged by the county; and the sheriff, or goaler, may demand and recover of the party or parties, at whose suit such insolvent person shall be imprisoned, all such fees as shall become due after the expiration of the said twenty days, until the credi-

Insolvent debtors prison fees to be paid by the county, for the first 20 days. Afterwards by the creditor; if he refuses sheriff may release his prisoner.

tor shall agree to release such prisoner: And if the creditor, upon notice thereof given to him or her, his or her attorney, or agent shall refuse to give security to the sheriff or goaler, for payment of such prison fees, or shall fail to pay the same when demanded, either in tobacco, or money, at the rate of ten shillings per hundred, it shall and may be lawful for the sheriff, or goaler, to discharge such debtor out of prison.

But creditor may recover such fee of the debtor.

Provided nevertheless, That such insolvent prisoner shall be afterwards liable to the action of the creditor, to recover such fees; and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards, sue out a scire facias, to have new execution against the lands and tenements, goods and chattels, of such prisoner, in case he, or she, shall afterwards become possessed of any.

Executions for sterling shall be levied in current money, at 25 per cent. exchange.

XXIX. *And be it further enacted, by the authority aforesaid,* That where any writ of execution shall, after the passing of this act, be sued out upon any judgment, decree, or recovery, had, or to be had, or obtained, in any court of record of this dominion, for sterling money, the sheriff, or officer, to whom such writ shall be directed, shall levy the same in current money, at the rate of twenty five per cent. advance upon the sterling for a difference of exchange, and not otherwise.

Repealing clause.

XXX. *And be it further enacted, by the authority aforesaid,* That all and every other act and acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this act, shall be and are hereby repealed.

Commencement of this act.

XXXI. *And be it further enacted, by the authority aforesaid,* That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one.

CHAP. XIII.

An Act directing the method of trial of criminals for capital offences; and for other purposes therein mentioned. [From edit. 1752.]

I. FOR establishing one certain and uniform method for the trial of criminals, for capital offences, *Be it enacted, by the Lieutenant-Governor, Council and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same,* That when any person, not being a slave, shall at any time hereafter be committed to any county goal, by precept from a justice of the peace, for any criminal offence, such justice shall forthwith issue his warrant, to the sheriff of his county, requiring him to summon the justices of the same county, to meet at their court house, on a certain day in such warrant to be appointed, not less than five nor more than ten days after the date thereof, to hold a court for examination of the prisoner, and of the witnesses, and circumstances of the fact, wherewith he, or she stands charged, and to consider, whether, as the case shall appear to them, he, or she, may be discharged from further prosecution, or may be tried in the county, or must be removed from thence, to be tried in the general court, or court of oyer and terminer: Which warrant the sheriff is hereby required to obey, and execute, and by virtue thereof the said justices shall and may lawfully meet, and hold court for the purposes aforesaid; and if upon examination before such court, they shall be of opinion, that the prisoner ought to be tried before the general court, or court of oyer and terminer, they shall enter such their opinion upon record, and remand the prisoner to the county goal; and thereupon it shall be lawful for any two justices of the said court whereof one shall be of the quorum, by warrant under their hands and seals, directed to the keeper of the public goal, to remove such prisoner, and him, or her to commit to the said public goal, there to be safely kept, until he, or she, be thence delivered, by due course of law: By virtue of which warrant, the sheriff shall, as soon as he conveniently may, remove such prisoner, and deliver him, or her, together with such warrant, to the keeper of the said goal, for the time being, who is hereby required

Method of proceeding against criminals, not being slaves committed by a justice.

A court to be summoned.

Commitment to the public goal.

to receive such prisoner, and him, or her, in his safe custody to keep, pursuant to such warrant, to him directed: And for the better enabling the sheriff safely to convey, and deliver such prisoner, or prisoners, it shall be lawful for the said two justices, by warrant under their hands and seals, to empower the sheriff, as well in his own county, as in all other counties, and places he shall pass through, with such prisoner or prisoners, to impress such and so many men, horses, sloops, or boats, as shall be necessary for the safe conveying him, her, or them, to the public goal aforesaid: Which warrant the sheriff, or officer, is hereby authorised and empowered to execute, and all persons are required to give due obedience thereto; such sheriff, or officer, proceeding therein as the law directs, upon impressing in other cases for the public service: But where the court held for examination of any such prisoner, as aforesaid, shall be of opinion that the fact may be tried in the county, in such case, he, or she, shall be bound over to the next grand jury court, to be held for that county, for trial, or upon refusing to give sufficient bail, shall be remanded to the county goal, there to remain until such court, or until he, or she, shall be bailed.

Sheriff may impress necessary assistance.

Proceedings where they fact may be tried in the county.

Prisoner may be bailed, if legally bailable.

Witnesses to be bound to appear.

Prisoner may have his witnesses summoned.

II. *Provided always,* That where any person under criminal prosecution, is by law bailable, he, or she, shall not be removed from the county, to the public goal, in less then twenty days after recommitment, or being remanded as aforesaid, but shall and may be admitted to bail within that time, or at any time afterwards before trial.

III. *And be it further enacted, by the authority aforesaid,* That upon every commitment of any person for any capital or criminal offence, the justice, or justices committing him, or her, shall cause all the witnesses to enter into recognizance for their appearance, to give evidence at the trial: And if upon the first commitment, the prisoner shall desire any witnesses on his, or her behalf to appear, before the court to be held for his, or her examination, the sheriff, upon request, shall forthwith summon such witnesses to attend the said court; and if after being remanded, or committed to the public goal, the prisoner shall desire any witness, or witnesses to be summoned the sheriff, or goaler, shall immediately give notice thereof to the

county court clerk, or to the clerk of the secretary's office, as the case shall require, who shall thereupon forthwith issue one or more subpoenas, for such witnesses to appear, and give evidence at the trial.

IV. *And be it further enacted, by the authority aforesaid,* That when any general court or court of oyer and terminer, shall be sitting, it shall be lawful for the keeper of the public goal, by order of such court, to impress a guard for the safe keeping all such prisoners in his custody, and that the fee due to the sheriff, or public goaler, for keeping and dieting any such prisoner, shall be five pounds of tobacco per day, and no more: And where the criminal shall be convicted, and hath estate sufficient to defray the charge of prosecution, the whole shall be paid out of the delinquent's estate, and the county, and public, only then chargeable, where no estate, or not sufficient, can be found or discovered.

Public goaler may impress aguard.

Prison fee for keeping a prisoner.

Criminal's estate liable to defray the costs of prosecution.

V. *And be it further enacted, by the authority aforesaid,* That it shall and may be lawful for the sheriff of the county of York, and the sheriff of the county of James City, for the time being, upon writs to them directed out of the secretary's office: Which writs the clerk of the said office is hereby impowered and required to issue six days, at least before the day of holding every court of oyer and terminer, to summon, each of them, twelve good and lawful men, being freeholders of their respective counties, to appear, and attend at such court of oyer and terminer; which twenty four freeholders, or so many of them as shall appear, shall be of a grand jury, and it shall be lawful for such grand jury to enquire of, and present, all treasons, felonies, and other offences, cognizable by the justices of oyer and terminer, which shall have been committed, or done, in any county or counties, within this colony of Virginia; and if any of the freeholders so summoned, shall fail to appear, and attend the said court, it shall be lawful for the justices thereof, to fine every freeholder, so failing, not exceeding four hundred pounds of tobacco.

Grand jurors at the court of oyer and terminer.

Fine, if they fail to appear.

VI. *And be it further enacted, by the authority aforesaid,* That when any person shall be committed to the public goal of this colony, for treason, or felony, for which such person may be tried before the court of oyer and terminer, or before the general court, the

Notice of commitments to the public goal.

sheriff, or other officer bringing such person to the public goal, shall immediately give notice to the clerk of the general court, for the time being, of such commitment, and the cause thereof, and the parish and county where the fact, for which such person was committed, shall be alledged to be done; and thereupon the said clerk shall issue a writ, directed to the sheriff of the county where such fact was committed, thereby commanding him to cause to come, twelve good and lawful freeholders of his county, residing as near as may be to the place where the fact is alledged to have been committed, before the justices of oyer and terminer, on the first day of that court, or the justices of the general court, on the sixth day thereof, then next coming, and to return a panel of their names; which twelve freeholders so returned; or so many of them as shall appear, not being challenged, together with so many other good and lawful freeholders of the by-standers, as shall make up the number of twelve men, shall be, and are hereby declared to be a lawful jury, for the trial of any person or persons, indicted of treason, or felony, committed or done in any county or counties of this colony, before the justices of the court of oyer and terminer, and the justices of the general court respectively: And every venire man, so summoned, appearing and attending such court, shall be intituled to the same allowance for travelling and attendance, as by law is provided for witnesses at the general court: And if any person so summoned, and returned on the panel to serve on the petit jury, before the justices of oyer and terminer, shall fail to appear and attend, it shall be lawful for the justices of the said court, to fine every person so failing, not exceeding four hundred pounds of tobacco: Which said fines, herein before mentioned, shall be to our sovereign lord the king his heirs and successors, for the better support of the government of this colony, and the contingent charges thereof.

VII. *And be it further enacted, by the authority aforesaid,* That in all trials for capital offences, the prisoner upon his petition to the court, shall be allowed counsel; and that no person shall be qualified to be of the petit jury, for the trial of treason, felony, or other criminal offence, in the court of oyer and terminer, who shall not be a freeholder, and possessed of an estate, real and personal, of the value of one hundred pounds

Venire, for
12 jurors of
the vicinage

Venireman's
pay.

Fine, on fail-
ure of ap-
pearance.

Prisoner may
have counsel.

Qualification
of a juror.

current money, at the least: But no exception taken to a juryman for the insufficiency of his estate, shall be allowed, unless the same be made before he is sworn of the jury: And if any challenge shall be made for the king, of any of the twelve jurors, so as aforesaid returned by the sheriff of the county where the fact is alledged to be done, good cause of such challenge shall be shown.

Insufficiency of estate no cause of challenge after a juror is sworn.
Challenge for the king shall be upon good cause.

VIII. But forasmuch as the summoning twelve freeholders, from the county where the fact is committed, is very burthensome and expensive to the public, as well as grievous to many of his majesty's subjects, who live in the remote counties, and most of the felonies and other capital offences committed in this colony, are perpetrated and done by persons who have been convicted of felony, or other crimes in Great Britain, or Ireland, and there sentenced to be transported for the same, and it can be no benefit to such persons; who are commonly servants, and little known in the neighbourhood where they live, to have a jury of the vicinage, but they may be as fairly and impartially tried by a jury of the by-standers: *Be it therefore further enacted, by the authority aforesaid,* That when any person charged with a capital offence, shall be examined before the court for that purpose to be summoned and held, such court shall have full power and authority to inquire, by such means as they shall think necessary, whether such person has been convicted in Great Britain, or Ireland, of any felony, or other crime, and there sentenced to be transported for the same, and whether the time for which such person was sentenced to be transported, be expired, and if it shall appear to such court, that the criminal has been so convicted and sentenced, and that the term of transportation is not expired, the court shall cause the same to be recorded, and the clerk of the court shall certify such record; upon the back of the warrant of commitment to the public goal, and upon such certificate, so endorsed, the clerk of the general court shall not issue any writ to summon a jury of freeholders of the county where the fact is alledged to be committed, but such person shall be tried by a jury of the by-standers, in the general court, or court of oyer and terminer.

Rules in trials of convicts, for capital offences

Provided nevertheless, That no person shall be qualified to be of such jury, unless he be a freeholder, and possessed of an estate, real and personal, of the value of one hundred pounds current money, at least.

And that upon every such trial the prisoner shall have benefit of challenges, and all other advantages which he, or she, might or could have, if the trial was by a jury of the vicinage.

Where felons
convict shall
have the be-
nefit of cler-
gy, without
reading.

IX. And for settling the law in relation to the benefit of clergy, to be allowed to felons convict, *It is hereby further enacted, and declared,* That where by any act of the parliament of England, made before the fourth year of the reign of the late king James the first, the benefit of clergy is taken away from any offence, the same shall be adjudged to be taken away from the like offence committed in this colony, in respect to principals, and accessories, standing mute or challenging a greater number of the jury than the law allows; and that where a man, convicted of felony, may demand the benefit of his clergy, if a woman be convicted of the same, or the like offence, upon her prayer to have the benefit of this act, judgment of death shall not be given against her, upon such conviction, nor execution awarded upon any outlawry for such offence, but she shall suffer the same punishment, as a man should suffer, that has the benefit of clergy allowed him, in the like case: That is to say, shall be burnt in the hand by the jaylor, in open court, and shall be afterwards dealt with, as a man in like case might be: And if any person be convicted of a felony, for which he ought to have the benefit of clergy, and shall pray to have the benefit of this act, he shall not be required to read, but without any reading shall be allowed, taken, and reputed to be, and punished as a clerk convict, which shall be as effectual to all intents and purposes, and as advantageous to him, as if he had read as a clerk, any law, or statute, to the contrary notwithstanding.

Convicts under sentence

of transportation, free negroes, mulattos, and indians, shall not be witnesses except for

X. And whereas convicts, as well as negroes, mulattos, and Indians, are commonly of such base and corrupt principles, that their testimony cannot be depended upon: To prevent the mischiefs which may happen, by admitting such precarious evidence, *Be it further enacted, by the authority aforesaid.* That no person convicted, and sentenced to transportation, as

is herein before recited, shall be admitted in any court or against
 of this colony, or before any justice of peace, to be convicts, ne-
 sworn as a witness, or to give evidence in any cause, groes, &c.
 civil, or criminal, except against or between any other
 convicts, until the term for which such person was sen-
 tenced to be transported, shall appear to be fully ex-
 pired: And that no free negroe, mulatto, or Indian,
 shall be admitted or sworn a witness, in any cause what-
 soever, except against or between negroes, mulattos,
 or indians.

XI. *And be it further enacted, by the authority* Repealing
aforsaid, That all and every other act and acts, clause.
clause and clauses heretofore made, for or concerning
any matter or thing within the purview of this act,
shall be and are hereby repealed.

XII. *And be it further enacted, by the authority* Commence-
aforsaid, That this act shall commence and be in ment of this
force from and immediately after the tenth day of act.
 June, which shall be in the year of our Lord one thou-
 sand seven hundred and fifty one.

CHAP. XIV.

An Act concerning Servants, and Slaves.

I. **B**E it enacted, by the Lieutenant-Governor, Coun-
 cil, and Burgesses of this present General As-
 sembly, and it is hereby enacted, by the authority of the
 same, That all servants, except convicts, imported
 into this colony without indenture, if they be christians,
 of christian parentage, and above nineteen years of
 age, shall serve but five years; and if they be under
 nineteen, 'til they become twenty four years of age,
 and no longer: But every such servant, under nine-
 teen, shall be brought, within six months after his, or
 her importation, before the court of the county where
 the master lives, and his, or her age adjudged by the
 court, otherwise shall be a servant no longer than the
 accustomed five years, altho' under the age of nine-
 teen; and the age of such servant, so adjudged and re-
 corded, shall be accounted his, or her true age, in res-
 pect to the time of service.

II. And that all persons who have been, or shall be
 imported into this colony, by sea or land, and were not
 Who shall be
 slaves.

[From edit.
 1752. This
 act was re-
 pealed, by
 proclama-
 tion. See note
 to chap. 2.]
 How long
 servants im-
 ported with-
 out inden-
 ture, shall
 serve.

christians in their native country; except turks and moors in amity with his majesty, and such who can prove their being free, in England, or any other christian country, before they were shipped for transportation hither, shall be accounted and be slaves, and as such be here bought and sold, notwithstanding a conversion to christianity after their importation.

Penalty for
selling free-
men as
slaves.

III. *And be it further enacted, by the authority aforesaid.* That if any person shall import into this colony, and here sell as a slave; any person or persons who have been free, in any christian country, island, or plantation, such importer and seller shall forfeit and pay, to the party from whom such free person shall recover his, or her freedom, double the sum for which such free person was sold, to be recovered in any court of record of this colony, with costs, according to the course of the common law, wherein the defendant shall not be admitted to plead in barr, any act or statute, for limitation of actions.

What shall
be no dis-
charge from
slavery,
Children
bond or free
according to
their mo-
ther's condi-
tion.

IV. *Provided always,* That a slave's being in England shall not be a discharge from slavery, without other proof of being manumitted there; and that baptism of slaves doth not exempt them from bondage: And that all children shall be bond, or free, according to the condition of their mothers, and the particular directions of this act; and where any female mulatto, or Indian, by law obliged to serve till the age of thirty one years, hath been or shall be delivered of any child, during the time of her servitude, such child shall serve the master, or mistress of such mulatto or Indian, until it shall attain the same age the mother of such child was obliged by law to serve unto.

Master's du-
ty to ser-
vants.

V. *And be it further enacted, by the authority aforesaid,* That all masters and owners of servants, by act of parliament, indenture, or custom, shall find and provide for them, wholesome and competent diet, cloathing, and lodging, and shall not give immoderate correction, nor whip any christian white servant naked, without order from a justice of peace: And if any person shall presume to whip a christian white servant naked, without such order, he, or she, so offending, shall forfeit and pay fifty shillings current money, to the party injured, recoverable with costs, upon complaint made to the county court, within six months after such whipping.

VI. And that all complaints of servants made to a Justice shall
 justice of peace, shall be by him received, and if there- receive ser-
 upon he shall see cause, he may bind over the master, vant's com-
 or owner, to appear before the next court held for his plaints.
 county, to answer such complaint, where the same shall
 be heard and determined: And all petitions of servants,
 to the court of the county wherein they reside, for diet, Proceedings
 cloathing, lodging, correction, whipping, freedom, or upon ser-
 freedom dues, shall be received at any time, without vant's peti-
 the formality of an action, and such court is hereby de- tions to the
 clared to have jurisdiction and authority, (the master court.
 or owner of the petitioner being first summoned to ap-
 pear) to hear and determine the matter of every such
 petition in a summary way, and to award execution
 thereupon: And where the same shall relate to diet,
 cloathing, lodging, or correction, the court may make
 such order as to them shall appear just and necessary;
 and if the master, or owner, will not comply with such
 order, the court may, upon a second complaint, or pe-
 tition, order the servant, so petitioning, to be immedi-
 ately sold by the sheriff by public auction, for the re-
 sidue of his, or her time of service, then unexpired,
 and the money, or tobacco, arising by such sale, after
 charges deducted, shall be paid to the owner, when de-
 manded; and if such servant be sick, lame, or dis-
 abled, so that he, or she, cannot be sold for so much, at
 least, as will satisfy the fees and other incident char-
 ges, the court shall order the church wardens of the par-
 ish to take care of, and provide for such servant, 'till
 the expiration of his, or her time of service, or until
 he, or she, can be sold for defraying all charges, and
 moreover, the court shall, from time to time, order
 the charges of keeping such servant to be levied, by
 distress upon the goods and chattels of the master, or
 owner.

VII. And that no master or owner shall, during the No contracts
 time of service, make any contract, or bargain, with between
 his, or her servant, for further service, or other mat- masters and
 ter or thing relating to liberty, or personal profit, un- servants, un-
 less the same be made in the presence, and with the ap- less in court.
 probation of the court of the county wherein the mas-
 ter or owner resides: And if any servant shall at any Servants
 time bring in goods, or money, or during the time of shall have
 their service shall, by gift, or any other lawful means, the property
 acquire goods or money, they shall have the property of their own
 effects.

Sick or lame servants may not be discharged.

and benefit thereof to their own use: And if any servant shall be sick, or lame, and so becomes useless or chargeable, his or her master or owner shall maintain such servant, until his or her whole time of service shall be expired; and if any master or owner shall put away a lame, or sick servant, under pretence of freedom, and such servant becomes chargeable to the parish, such master or owner shall forfeit and pay ten pounds current money to the churchwardens of the parish wherein such offence shall be committed, to the use of their parish recoverable with costs, by action of debt, in any county court of this colony, and moreover shall be liable to the action of the said churchwardens, at the common law for damages.

Penalty 10l. for damages.

Freedom-dues.

VIII. And that every servant, male or female, not having wages, shall, at the expiration of his, or her time of service, have and receive three pounds ten shillings current money, for freedom dues, to be paid by his, or her master, or owner; and in case of refusal, recoverable with costs, by petition to the county court, in manner herein before directed.

Who may not have a christian servant.

IX. *And be it further enacted, by the authority aforesaid,* That no negroe, mulatto, or indian, altho' a christian, or any Jew, Moor, Mahometan, or other infidel, shall at any time purchase any christian servant, nor any other, except of their own complexion, or such as by this act are declared slaves: And if any of the persons aforesaid shall nevertheless presume to purchase a christian white servant, such servant shall immediately become free, and be so held, deemed and taken: And if any person, having such christian servant, shall marry with a negroe, mulatto, indian, jew, moor, mahometan or other infidel, such servant shall thereupon become freed from all service then due to such master or mistress.

Penalty upon dealing with a servant, or slave, without leave.

X. And that no person whatsoever shall buy, sell, or receive of, to or from any servant, or slave, any coin or commodity whatsoever, without the leave or consent of the master or owner of such servant, or slave: And if any person shall presume to deal with any servant, or slave, without such leave or consent, he or she so offending, shall be imprisoned one calendar month, without bail or mainprize, and then remain in prison, until he or she give sufficient security, in the sum of ten pounds current money, for the good behaviour for

one year following, wherein a second offence shall be a breach of the bond; and moreover, such offender shall forfeit and pay four times the value of the thing so bought, sold, or received, to the master or owner of such servant, or slave; to be recovered with costs by action upon the case, in any county court of this dominion: And when any person, convict as aforesaid, shall not immediately give such security, for the good behaviour, the court shall order thirty nine lashes, well laid on, upon the bare back of such offender, at the common whipping post, and he or she to be thereupon discharged of giving such bond and security.

XI. *And be it further enacted, by the authority aforesaid,* That all servants shall faithfully and obediently, all the whole time of their service, do all their masters or owners just and lawful commands; and if any servant shall resist his or her master, mistress, or overseer, or offer violence to any of them, such servant shall, for every such offence, be adjudged to serve his or her master or owner one whole year, after the time by act of parliament, indenture, custom, or former order of court shall be expired.

Duty of servants.

Their punishment, in case of resistance.

XII. And that in all cases of penal laws, where free persons are punishable by fine, servants shall be punished by whipping, after the rate of twenty lashes for every five hundred pounds of tobacco, or fifty shillings current money, so that no servant shall receive more than forty lashes at one time; unless such offender can procure some person to pay the fine.

And where they transgress penal laws.

XIII. And to the end poor people may not be destitute of employment, under suspicion of their being servants, as well as to prevent servants running away: *It is hereby further enacted,* That every servant, upon expiration of his or her time, and proof thereof made before the court of the county where he or she last served, shall have his or her freedom recorded, and a certificate thereof under the hand of the clerk; which shall be sufficient to indemnify any person for entertaining or hiring such servant, and if such certificate shall happen to be torn or lost, the clerk, upon request, shall issue another, reciting therein the loss of the former: And if any person shall harbour or entertain a servant, not having and producing such certificate, he or she shall pay to the master or owner of such servant, thirty pounds of tobacco, for every nat-

Servants when free, shall have a certificate.

Penalty on harbouring servants without certificate.

Punishment
of servants
using a forged
or stolen
certificate.

And on persons
forging.

ural day, he or she shall so harbour or entertain such runaway, recoverable with costs, by action of debt, in any county court of this dominion: And if any runaway shall make use of a forged certificate, or after delivery of a true certificate, to the person hiring him or her, shall steal the same and thereby procure other entertainment, the person entertaining or hiring, shall not be liable to the said penalty, but such runaway, besides making reparation for loss of time and charges of recovery, in the manner herein after directed, shall stand two hours in the pillory, on a court day, for making use of such forged or stolen certificate; and the person forging the same shall forfeit and pay ten pounds current money, one moiety to the king, his heirs and successors, for the better support of this government, and the contingent charges thereof, the other moiety to the owner of such runaway, or the informer, recoverable with costs, in any county court of this dominion; and on failure of present payment, or security for the same within six months, such offender, shall receive thirty nine lashes on his or her bare back, well laid on, at the common whipping post: And where a runaway shall happen to be hired upon a forged certificate, and afterwards denies the delivery thereof, the onus probandi shall lie upon the party hiring such runaway.

Rewards for
taking up
runaways.

The method
of proceeding
with
them.

XIV. And to encourage all persons to take up runaways, *Be it further enacted, by the authority aforesaid,* That for every runaway servant, or slave, taken up ten miles, or more, from his or her usual place of abode, the taker up shall be entitled to a reward of two hundred pounds of tobacco; but if under ten, and above five miles, one hundred pounds of tobacco; which shall be paid by the public, in the county where such taker up resides, and be levied by the public upon the master or owner of the runaway: But the taker up shall forthwith bring such runaway before a justice of peace, of the county where he or she shall be taken, to be examined; and if thereupon such servant, or slave, appears to be run away, the justice shall grant the taker up a certificate reciting his or her proper name and surname, the county of his or her residence, the name of the runaway, the proper name and surname of his or her owner, and the county wherein he or she resides, the time and place when and where the runa-

way was taken, and the distance of miles, in the judgment of the justice, from the house or quarter where the runaway was usually kept; and such justice shall also issue his warrant to the next constable, requiring him to receive such runaway, and give him or her such a number of lashes as the said justice shall think fit to direct, not exceeding thirty nine, and then him or her to convey and deliver to the next constable, and so from constable to constable, until the runaway be delivered to his or her owner or overseer: And every constable to whom such runaway and warrant shall be produced, shall execute the same, and give a receipt upon delivery of the runaway to him, under penalty of forfeiting and paying two hundred pounds of tobacco, to the churchwardens of the parish wherein such constable lives, recoverable with costs, by action of debt, in any county court, to the use of such parish: But the corporal punishment, herein before directed to be given to runaways, shall not deprive the master or owner of any servant, from the satisfaction by this act required to be made by servants for running away.

Constables
duty.

XV *And be it further enacted, by the authority aforesaid,* That every negroe, or other person, taken up and brought before a justice of peace, and who cannot, or will not, declare the name of his or her owner, shall be committed to the goal of the county where taken, by warrant under the hand of such justice; and the sheriff or goaler, to whose custody such runaway shall be committed, shall forthwith cause notice thereof, and a description of such runaway, and his or her cloathing, to be publickly affixed at the door of the court-house, and there continued two months, if no owner appears within that time: and shall also send a copy thereof to the clerk or reader of every church within his county, to be by him published, and affixed in some open and convenient place near his church, every Sunday during two months after the date thereof, unless the owner appear sooner, under penalty of five hundred pounds of tobacco, on every sheriff or goaler, and two hundred pounds of tobacco on every clerk or reader failing, one moiety to the king, his heirs and successors, for the better support of this government and the contingent charges thereof, the other moiety

Runaway not
declaring the
name of his
owner, shall
be committed.
ted.

Proceedings
thereupon:

to the informer, recoverable with costs, by action of debt, or information, in any county court: But such runaway shall be delivered to his or her owner when demanded, he or she satisfying the sheriff's fees, and also two hundred pounds of tobacco, or twenty shillings for the taking up: And that if within two months after such commitment, no owner appears or claims, the sheriff shall deliver such runaway to the next constable, to be conveyed from one constable to another, 'til brought to the public goal of this colony, and delivered to the keeper thereof, by such warrant, and to receive such punishment as is herein before directed; and the said keeper is hereby required to receive such runaway into his safe custody, and give a receipt, and shall also publish advertisement, and a description of the person and cloaths, in the Virginia Gazette, and continue the same three months, if no owner appears; and it shall be lawful for the said keeper, upon application to the nearest county court to the said goal, with consent of the said court, to let such runaway to hire, to any person by them approved of, for money or tobacco, and for such term as shall be by them directed, and out of the hire arising thereby, all charges for taking up, imprisonment, conveying to goal, maintaining, and releasing such runaway, shall be first paid, and the overplus disposed of as such court shall direct; but the said keeper shall cause a strong iron collar, with the letters P. G. stamped thereon, to be put on the neck of every runaway so hired out, at the time of delivering him or her to the person hiring, which shall indemnify him from any escape afterwards: and for every runaway so hired out, the keeper of the said public goal shall be allowed one fee for commitment, and the same for releasement, and no more: and if any such runaway shall happen to die in goal, the reward for taking up, and all other fees incident, shall be defrayed by the public. *Provided always,* That when the owner of such runaway shall demand him or her, the person of whom he or she was hired shall forthwith deliver the same, into the custody of the keeper of the public goal, and shall then also pay the hire, in proportion to the time the runaway hath served; and if that be not sufficient to satisfy all charges, the owner paying down the residue, shall have him or her delivered.

XVI. But whereas the continuance of runaway slaves some time in the public goal, may induce dishonest persons to pretend themselves owners, and thereby obtain possession to the prejudice of the true owner, *Be it therefore enacted, by the authority aforesaid,* That before any such slave shall be delivered by the keeper of the public goal, the person claiming such slave, shall first apply to the court of the county where he resides, and make proof of his having lost a slave, answering the description published by the said keeper in the Gazette, and obtain certificate thereof, and also there give security to answer all damages if it shall thereafter appear, that the slave he shall thereupon receive from the said keeper, doth really belong to some other person: And on producing such certificate to the keeper aforesaid, and making oath before the mayor, or some other magistrate of Williamsburg, that the slave who shall be there present, is his, or the slave of _____ for whom he appears, it shall be lawful for the said keeper, to deliver the slave so described and sworn to, and not otherwise.

XVII. And if no owner shall appear to claim such runaway, the county court shall, after the charges aforesaid are paid and satisfied, cause such runaway to be sold at public auction, by the sheriff, and the money arising by the sale shall be paid to the treasurer of this colony, and applied by him for the use of the public; but in case the owner shall, at any time afterwards, prove his property in the said runaway, the said treasurer shall repay him or her, the money so received, and be allowed the same in his account.

XVIII. And that when any runaway shall have crossed the bay of Chesapeak, and be brought before a justice of any county lying upon the said bay, such runaway shall be committed to the sheriff, and not to a constable; but if he or she, after crossing the bay, shall get up into some other county, more remote, in such case the runaway shall be committed to a constable, and so from constable to constable, 'till delivered to the sheriff of some county adjoining to the bay aforesaid: And every such sheriff is hereby required to receive the runaway so to him committed, and shall forthwith cause him or her to be transported again a-

Ownerclaim-
ing a runa-
way slave in
the public
goal, must
prove his
property.

Where no
owner ap-
pears.

Where runa-
ways have
crossed the
bay.

cross the bay, and delivered to a constable there, to be conveyed as is herein before directed; and for his trouble and charge herein, such sheriff shall have and receive five hundred pounds of tobacco, for every runaway so transported and delivered, to be paid by the public and repaid by the owner of the runaway: And if any sheriff, or his officer shall cause or suffer such runaway to work, so as to occasion any delay, such sheriff, or officer, shall forfeit and pay one thousand pounds of tobacco, to the owner of the runaway, recoverable with costs, by action of debt, or information, in any county court of this dominion.

Where they
belong to
Maryland or
Carolina.

XIX. And where a runaway, belonging to an inhabitant of Maryland or Carolina, shall be taken and brought before a justice, such runaway shall be by him committed to the goal of the county where taken, and the sheriff, or goaler, shall cause advertisements to be published in the same manner, and for the same time, as is herein before directed to be done by the keeper of the public goal, and if no owner appears, may, with consent and approbation of his county court, hire out such runaway, and shall pay the reward for taking up, which shall be reimbursed out of the hire, or by the owner, together with all other charges, if the hire be not sufficient. And all money or tobacco arising by such hire of the runaway, 'till claimed by his or her owner, shall be to the use of such sheriff or goaler, and he may demand and take of the owner, the like fees and charges, as are or shall be then demandable of the inhabitants of Virginia, for runaways taken up, in the province where such owner resides.

Officer may
impress as-
sistants, and
liable for es-
capes.

XX. *And be it further enacted, by the authority aforesaid,* That every sheriff, constable, or other officer, charged with conducting runaways, shall be, and is hereby impowered to impress men and horses, where necessary, for the safe conveying the person or persons wherewith he stands charged; And if such officer shall suffer such runaway to escape, he shall be liable to the party grieved, for recovery of damages and costs, at the common law.

Prison fees.

XXI. And that the keeper of the public goal may demand and take, for the commitment of every runaway, two shillings current money, or twenty pounds of tobacco, and the same for releasement, and for every

twenty four hours keeping him or her in goal, six pence, or five pounds of tobacco, and no more: And if he, or any sheriff, or goaler, shall demand and take any other or greater fee, than is, or shall be by law allowed for runaways, he or they so offending shall, for every such offence, forfeit and pay twenty shillings to the party grieved, and shall also refund and pay back all money or tobacco received over and above the legal fees, recoverable with costs before any justice of peace, of the county where such offence shall be committed.

XXII. And that every runaway servant, upon whose account any reward shall be paid for taking up, shall serve his or her master, or owner, after all other time of service due shall be expired, one month and a half for every hundred pounds of tobacco so paid, or to be paid, and for all necessary disbursements and charges expended in pursuit and recovery of such runaway, and moreover shall serve double the time of his or her absence, to be adjudged and allowed by the court of the county where the owner resides, or where the runaway is kept, at the next court held after his or her recovery, he or she being also brought before them; but if the owner neglects so to do, the court may allow, or reject such claim, as to them appears just, without any appeal. *Provided always,* That if any servant, at the time of such judgment, shall repay, or give good security before the court, for repayment of all charges and disbursements, within six months after, the master or owner shall accept thereof, in lieu of service.

Runawayser-
vants to re-
pay all char-
ges, & loss
of time.

XXIII. And whereas many abuses have been committed by persons, who, under pretence of understanding trades and mysteries, have procured large sums of money to be advanced to them, and entred into covenants with merchants and others, in Great Britain or elsewhere, for the payment of yearly wages, tho' they were really ignorant of, and unable to perform such trades or mysteries: *Be it therefore further enacted, by the authority aforesaid,* That all and every person or persons already imported, or who shall be imported into this colony, as a tradesman or workman on wages, and shall be found not to understand such trade or employment, may be brought, by his or her master or owner, before any county court of this

Remedy a-
gainst ser-
vants import-
ed as trades-
men, or me-
chanics, up-
on wages, &
found igno-
rant.

colony, who are hereby impowered and directed, upon complaint of such deceit to them made, to enquire into the same, and upon finding any such fraud, may order and direct such satisfaction to be made to the master, or owner of such servant, either by defalcation of the wages, or part thereof, or by such further time of service for the money advanced, as to them shall seem just: And that if any such tradesman or workman, on wages, shall refuse or neglect to perform his duty, or absent himself from his master's service, without leave, the justices of the county court wherein such master resides, upon complaint and proof to them made, may order such satisfaction to be made to such master or owner, as to them shall seem just; and that for every days absence, such servant shall serve two days, without wages, after his time by indenture, or former order of court is expired.

Or, where they refuse to work, or absent themselves.

XXIV. And be it further enacted, by the authority aforesaid, That every person who at any time or times hereafter shall be bound by indenture, to serve as an apprentice in any trade, art, mystery, or occupation, with the consent and approbation of any court of record within this colony, altho' such person be within the age of twenty one years at the time of making his indenture, shall be obliged to serve the full time in such indenture contained, as amply and largely to every intent, as if such apprentice were of full age at the time of making the same.

Apprentices shall serve out their full time.

XXV. And be it further enacted, by the authority aforesaid, That if any person or persons shall steal any negroe, mulatto, or Indian slave, whatsoever, out of or from the possession of the owner or overseer of such slave, the person or persons so offending shall be, and are hereby declared to be felons, and shall suffer death, without benefit of clergy.

Stealing slaves felony, without clergy.

XXVI. And be it further enacted, by the authority aforesaid, That all and every other act and acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this act, shall be and are hereby repealed.

Repealing clause.

XXVII. And be it further enacted, by the authority aforesaid, That this act shall commence and be in force from and immediately after the tenth day of June, which shall be in the year of our lord one thousand seven hundred and fifty one.

Commencement of this act.

FORM OF GIVING
THE
ROYAL ASSENT

TO

AN ACT OF ASSEMBLY,

PASSED UNDER THE COLONIAL GOVERNMENT.

*[From a book in the office of the General Court, labelled
Proclam. Book 1748, p. 2.]*

AT THE COURT AT ST. JAMES'S,

The 20th day of March, 1745.

PRESENT.

The Kings Most Excellent Majesty,	
Lord President,	Viscount Torrington,
Lord Privy Seal,	Lord Delawar,
Lord Steward,	Lord Bathurst,
Lord Chamberlain,	Lord Hobart,
Duke of Bedford,	Lord Sandys,
Duke of Rutland,	Mr. Vice Chamberlayne,
Duke of New Castle,	Lord Chief Justice Lee,
Earl of Cholmondely,	Lord Chief Justice Willis,
Earl of Harrington,	Sir John Norris,
Viscount Cobham,	Sir John Rushout.

George Dodington, Esq.

Form of giving the royal assent to an act of Assembly.

WHEREAS by Commission under the Seal of *Great Britain*, the Governor, Council and Assembly, of his Majesty's province of *Virginia*, are authorized and impowered to make, constitute, and ordain Laws, Statutes, and Ordinances, for the Public Peace, Welfare, and good government of the said Province; which Laws Statutes and Ordinances are to be as near as conveniently may be, agreeable to the Laws and Statutes of this Kingdom, and to be transmitted for his

Form of giving the royal assent to an act of Assembly. Majesty's royal approbation or disallowance. **AND** WHEREAS in pursuance of the said powers an Act was passed in the said province in 1744, which hath been transmitted in the words following, viz.

An Act for the relief of certain Creditors.

WHEREAS great difficulties have arisen in recovery of debts due to the inhabitants of this colony, from persons residing in other parts of his majesty's dominions, or who have removed themselves into foreign parts, having effects here sufficient for the satisfying and paying such debts, for remedy whereof, **BE IT ENACTED**, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted by the authority of the same, that if in any suit which hath been or hereafter shall be commenced for Relief in Equity in the General Court of this Colony any Defendant or Defendants against whom any subpoena or other Process shall issue shall not cause his or her appearance to be entered upon such Process within such time and in such manner as according to the Rules of the Court the same ought to have been entered in case such Process had been duly served and an affidavit or affidavits shall be made to the satisfaction of such Court that such defendant or defendants is or are beyond the seas or that upon enquiry at his, her or their usual place of abode he, she or they could not be found so as to be served with such process then and in such cases the Court may not only make an order or orders to restrain and enjoin any person or persons in this colony having any effects belonging to the defendant or defendants in their hands or in any other manner Debtors to the Defendant or Defendants from paying, conveying away or secreting such Debts or effects until the further order or decree of the said Court But also may (if to the same Court it may seem necessary) order such Effects to be delivered to the Plaintiff or Plaintiffs subject to the future order and Decree of the said Court, upon such plaintiff or plaintiffs giving such security as to the said Court shall seem proper for the return of the said effects in such manner and to such Persons as the said Court shall adjudge and the said Court also shall and may, make an order directing and appointing such Defendant or Defendants to appear at a certain day therein

to be named of the next succeeding Court and a copy of such order shall within fifteen days after such order made be inserted in the *Virginia Gazette* for two months successively and published on some Lords day immediately after divine service in such Parish Church or Churches as the said Court shall appoint and direct and also in every case a copy of such order shall within the time aforesaid be posted up at the front door of the Capitol in the City of *Williamsburg* and if the Defendant or Defendants do not appear within the time limited by such order or within such further time as the Court shall appoint then on proof made of such publication of such order as aforesaid the Court being satisfied of the truth thereof may order the Facts of the Plaintiffs Bill to be taken *pro confesso*. But if the matter or cause of such suit or suits be for the adjustment and settlement of any account or accounts and for satisfaction of what Ballances may appear due thereon, then and in such cases the Court may either by assigning and appointment of Auditors or in any other manner proceed to the stating and settlement of such account or accounts and make such order and decree thereupon as shall be thought just and may thereupon issue Process to compell the performance of such decree either by imediate Sequestration of the Real and Personal Estate and Effects of the Defendant or Defendants if any such can be found or such part thereof as may be sufficient to satisfie the demand of the plaintiff or plaintiffs in the said suit or by causing possession of the Estate or effects demanded by the Bill to be delivered to the plaintiff or plaintiffs or by continuing the Effects if any so ordered to be delivered on the return of the Subpœna as aforesaid or such part thereof as may be sufficient to satisfie the Plaintiff or Plaintiffs Demand and Costs of Suit in the hands of the Plaintiff or Plaintiffs or give such further relief or remedy as the nature of the case shall require and the said Court may likewise order such Plaintiff or Plaintiffs to be paid and satisfied his her or their Demands out of the Estate or Effects so Sequestred according to the true intent and meaning of such decree such Plaintiff or Plaintiffs first giving sufficient security in such sum as the Court shall think proper to abide such order touching the restitution of such Estate

Form of giving the royal assent to an act of Assembly.

Form of giving the royal assent to an act of Assembly.

or Effects as the Court shall think proper to make concerning the same upon the Defendant or Defendants appearance to defend such suit and paying such costs to the Plaintiff or Plaintiffs as the Court shall order. But in case such Plaintiff or Plaintiffs shall refuse or neglect to give such security as aforesaid then the said Court shall order the Estate or Effects so sequestered or whereof possession shall be decreed to be delivered to remain under the direction of the Court either by appointing a receiver thereof or otherwise as to such court shall seem meet until the appearance of the Defendant or Defendants to defend such Suit and his or their paying such Costs to the Plaintiff or Plaintiffs as the said Court shall think reasonable, or until such orders shall be made therein as the court shall think just. AND it is hereby further enacted by the authority aforesaid that from and after the passing of this Act if any defendant or defendants by virtue of any writ of *Habeas Corpus* or other Process issuing out of the said Court shall be brought into court and shall refuse or neglect to enter his her or their appearance according to the Rules and Methods required by the said Court or to appoint an Attorney of such Court to act on his, her or their behalf respectively such Court may appoint an Attorney of such Court to enter an appearance for such Defendant or Defendants respectively and such proceedings may thereupon be had in the Cause as if the party had actually appeared. PROVIDED always that if the person against whom any Decree shall be made upon refusal or neglect to enter his her or their appearance or appoint an Attorney to act on his her or their behalf shall be in Custody or forthcoming so that he she or they may be served with a Copy of such decree then he she or they shall be served with a Copy thereof before any Process shall be taken out to compell the performance thereof. PROVIDED also that if any decree shall be made in pursuance of this Act against any person or persons being out of this Colony or absconding as aforesaid at the time such Decree is pronounced and such person or persons shall within seven years after the making such decree return or become publickly Visible then and in such case he she or they shall likewise be served with a Copy of such Decree within a reasonable time after his her or their Return or Public appearance shall be known to the Plaintiff or Plaintiffs, and in case any Defendant a-

gainst whom such Decree shall be made shall within seven years after the making such Decree happen to die before his or her return into this Colony or appearing openly as aforesaid or shall within the time last before mentioned die in Custody before his or her being served with a Copy of such Decree then his or her Heir if such Defendant shall have any real Estate sequestred or whereof possession shall have been delivered to the Plaintiff or Plaintiffs and such Heir may be found or if such Heir shall be a *Feme Covert* Infant or *Non Compos Mentis* the Husband, Guardian or Committee of such Heir respectively or if the personal Estate of such Defendant be sequestred or possession thereof delivered to the Plaintiff or Plaintiffs, then his or her Executor or Administrator if any such there be may and shall be served with a Copy of such Decree within a reasonable time after it shall be known to the Plaintiff or Plaintiffs that the Defendant is dead and who is his or her Heir Executor and Administrator or where he she or they respectively may be served therewith. PROVIDED always that if any Person or Persons so served with a Copy of such Decree shall not within twelve months after such service appear and Petition to have the said cause reheard such decree so made as aforesaid shall stand absolutely confirmed against the person and persons so served with a Copy thereof his her and their respective Heirs Executors and Administrators and all persons claiming by from or under him her them or any of them by Virtue of any Act done or to be done subsequent to the commencement of such suit PROVIDED nevertheless that if any Person so served with a Copy of such Decree shall within twelve months after such service or if any Person not being so served shall within seven years next after the making such Decree appear in Court and petition to be heard with respect to the matter of such Decree and shall pay down or give security for payment of such Costs as the Court shall think reasonable in that behalf the Person or Persons so petitioning his her or their respective representatives or any Person or Persons claiming under him her or them respectively by Virtue of any Act done before the commencement of the Suit may be admitted to answer the Bill exhibited and Issue may be joined and Witnesses on both sides examined and such other proceedings

Form of giving the royal assent to an act of Assembly.

Form of giving the royal assent to an act of Assembly.

Decree and Execution may be had thereon as there might have been in case the said Party had originally appeared and the proceedings had then been newly begun or as if no former Decree or proceedings had been in the same cause PROVIDED nevertheless And be it ENACTED by the Authority aforesaid that if any Person or Persons against whom such decree shall be made his her or their Heirs Executors or Administrators shall not within seven years next after the making of such Decree appear and Petition and have the Case reheard and pay down or give security for payment of such Costs as the Court shall think reasonable in that behalf such Decree made as aforesaid shall stand absolutely confirmed against the Person and Persons against whom such Decree shall be made his her and their Heirs Executors and Administrators and against all persons claiming or to claim by from or under him her them or any of them by Virtue of any Act done or to be done subsequent to the commencement of such suit and at the End of such seven years it shall and may be lawful for the Court to make such further order as shall be just and reasonable according to the circumstances of the cause.

October 18th 1744

Agreed to by the House of Burgesses,

Peter Randolph, C. H. B.

September 29th 1744 Read the third Time
And passed the Council.

Nath'l. Walthoe C, G. A.

WILLIAM GOOCH

John Robinson, Speaker."

AND WHEREAS the said Act together with a Representation from the Lords Commissioners for Trade and Plantations thereupon have been referred to the consideration of a Committee of the Lords of his Majestys most Honourable Privy Council for Plantation affairs the said Lords of the Committee did this day Report as their opinion to his Majesty, that the said Act was proper to be approved HIS MAJESTY taking the same into consideration was pleased with the advice of his Privy Council to declare his approbation of the said Act and Pursuant to his Majestys ROYAL Pleasure thereupon expressed the said Act is hereby con-

firmed finally Enacted and Ratified accordingly where-
of the Governor Lieutenant Governor or Commander
in Chief of his Majestys Province of Virginia for the
time being and all others whom it may concern are to
take notice and conform themselves accordingly.

Form of giving the royal assent to an act of Assembly.

W. SHARP.



PROCLAMATION

REPEALING CERTAIN

ACTS OF ASSEMBLY,

PASSED AT THE REVIVAL OF 1748.

VIRGINIA, SCT.

By the Hon'ble ROBERT DINDWIDDIE, esqr. his Majesty's Lieutenant-Governor, and Commander in Chief of the colony and dominion of Virginia.

Proclamation repealing certain acts passed at the revival of 1748.

A PROCLAMATION for publishing the repeal of several Acts of Assembly, passed in the years 1748 and 1749.

WHEREAS all Laws, Statutes and Ordinances, made and passed in the General Assembly of this Dominion, are according to the Constitution of this Government, by his Majesty's Letters Patent under the Great Seal of Great Britain, to be transmitted to his Majesty, for his Royal Approbation or Disallowance, and such of the said Laws, Statutes and Ordinances, as shall be thereupon disallowed or disapproved, and so signified by his Majesty, under his sign manual and signet, or by order in Privy Council, are from thenceforth to cease, determine, and become utterly void. And Whereas his Majesty, in Council has been pleas'd to signify his disapprobation and disallowance of several Acts passed in the years 1748 and 1749, (to wit,)

An Act for allowing Fairs to be kept in the Town of Suffolk, and preventing Hogs and Goats going at large therein, and for altering the time of holding Fairs in the Town of Newcastle.

Proclama-
tion repeal-
ing certain
acts passed
at the revi-
sal of 1748.

Also, An Act, intituled, An Act for establishing a Town in Augusta County, and allowing Fairs to be kept there.

Also, An Act, intituled, An Act declaring Slaves to be personal Estate, and for other purposes therein mentioned.

Also, An Act, intituled, An Act for the distribution of Intestates Estates.

Also, An Act, intituled, An Act for establishing the General Court and for regulating and settling the proceedings therein.

Also, An Act, intituled, An Act for Limitation of Actions and avoiding of Suits.

Also, An Act, intituled, An Act concerning servants and slaves.

Also, An Act, intituled, An Act to prevent tending seconds.

Also, An Act, intituled, An Act, for the better support of the College of William and Mary.

And, An Act, intituled, An Act, to prevent the building Wooden Chimnies in the Town of Walkers-ton; and also to prevent the inhabitants thereof from raising and keeping Hogs.

I do therefore, in pursuance thereof, by this proclamation, publish and declare that the said Acts of Assembly, are repealed and utterly void, and of none effect: And for the more solemn signification thereof; I do appoint the proclamation to be read and published, at the Court House of the several Counties within this Dominion; and the Sheriffs are to take care the same be done accordingly. Given at the Council Chamber, this eighth day of April, one thousand seven hundred and fifty two, in the xxv year of his Majesty's reign.

ROBERT DINWIDDIE.

GOD SAVE THE KING.

[From a book in the office of the General Court, labelled "PROCLAM: BOOK, 1748," pa. 89.]

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Page	19	line 5, from top, read "in arms, at" for "at arms, in"
	22	15, from bottom, read "it" for "tt"
	ib.	line the last, read "said" for "sald"
	24	4 from the bottom, read "felonies" for "folonies"
	25	8 from the bottom, read "person" for "persons"
	ib.	7 from the bottom, read "person" for "persons"
	29	21 from the bottom, read "or" for "and"
	40	10 from the top, read "on" for "or" where it first occurs.
	78	12 from the top, insert the word "as" between "descriptions" and "they"
	81	13 from the bottom, read "persons" for "person"
	85	11 from the bottom, insert the word "of" between "any" and "them"
	125	12 from the bottom, read "that" for "the" before the word "purpose"
	188	19 from the bottom, read "same" for "sames"
	194	2 from the bottom, read "conveied" for "covied"
	212	10 from the bottom, insert the word "and" between "Assembly" and "it"
	217	22 from the top, read "his" for "a"
	220	10 from the bottom, insert "in" between "if" and "any"
	234	1 at the top, for "fo" read "for"
	237	13 from the top, insert the word "such" between "of" and "hides"
	323	6 from the bottom, read "is" after the word "it"
	333	20 from the bottom read "charged" for "paid"
	334	at the end of the last line insert "30"
	337	10 from the top, read "the" for "she"
	372	the bottom line, read "any" for "and"
	379	8 from the top, read "therefrom" for "threfrom"
	ib.	11 from the bottom, read "storehouses" for "storhouses"
	388	7 from the top, read "large" for "lurge"
	410	10 from the bottom, read "county" for "country"
	433	2 from the top, read "be" for "the"
	464	the top line omit the word "to"
	471	15 from the top, read "on" for "or"
	475	16 from the top, read "except" for "accept"
	ib.	19 from the bottom, read "excepted" for "accepted"
	483	1 at top, read "any" between "granting" and "such"
	491	8 from the bottom, read "determinable" for "derminable"
	502	17 from the bottom, read "complainant" for "complaint"
	506	3 from the bottom, read "before" for "defore"
	521	9 from the top, read "refused" for "refuse"
	524	5 from the top, read "of" for the word "for"
	530	15 from the bottom, read "had" for "hath"
	531	21 from the bottom, read "goods" for "good"
	532	19 from the top, read "querela" for "querea"
	553	13 from the top, read "runaway" for "ruaway"
	554	7 from the bottom, read "to" for "of"



